

FEDERAL REGISTER

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TITLE 3—THE PRESIDENT EXECUTIVE ORDER 9957

POSSESSION, CONTROL, AND OPERATION OF CERTAIN RAILROADS

WHEREAS I find that as a result of labor disturbances there are interruptions, and threatened interruptions, of the operations of the transportation systems owned or operated by the carriers by railroad named in the list attached hereto and made a part hereof; that it has become necessary to take possession and assume control of the said transportation systems for purposes that are needful or desirable in connection with the present emergency and that the exercise, as hereinafter specified, of the powers vested in me is necessary to insure in the national interest the operation of the said transportation systems:

NOW, THEREFORE, by virtue of the power and authority vested in me by the Constitution and the laws of the United States, including the act of August 29, 1916, 39 Stat. 619, 645, as President of the United States and as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

1. Possession, control, and operation of the transportation systems owned or operated by the carriers by railroad named in the list attached hereto and hereby made a part hereof are hereby taken and assumed, through the Secretary of the Army (hereinafter referred to as the Secretary) as of 12 o'clock noon, Eastern Standard Time, May 10, 1948; but such possession and control shall be limited to real and personal property and other assets used or useful in connection with the operation of the transportation systems of the said carriers. If and when the Secretary finds it necessary or appropriate for carrying out the purposes of this order, he may, by appropriate order, take possession and assume control of all or any part of any transportation system of any other carrier by railroad located in the continental United States.

2. The Secretary is directed to operate or to arrange for the operation of, the transportation systems taken under or pursuant to this order in such manner as he deems necessary to assure to the fullest possible extent continuous and uninterrupted transportation service.

3. In carrying out the provisions of this order the Secretary may act through

or with the aid of such public or private instrumentalities or persons as he may designate, and may delegate such of his authority as he may deem necessary or desirable. The Secretary may issue such general and special orders, rules, and regulations as may be necessary or appropriate for carrying out the provisions, and to accomplish the purposes, of this order. All Federal agencies shall comply with the orders of the Secretary issued pursuant to this order and shall cooperate to the fullest extent of their authority with the Secretary in carrying out the provisions of this order.

4. The Secretary shall permit the management of carriers whose transportation systems have been taken under, or which may be taken pursuant to, the provisions of this order to continue their respective managerial functions to the maximum degree possible consistent with the purposes of this order. Except so far as the Secretary shall from time to time otherwise provide by appropriate order or regulation, the boards of directors, trustees, receivers, officers, and employees of such carriers shall continue the operation of the said transportation systems including the collection and disbursement of funds thereof, in the usual and ordinary course of the business of the carriers, in the names of their respective companies, and by means of any agencies, associations, or other instrumentalities now utilized by the carriers.

5. Except so far as the Secretary shall from time to time otherwise determine and provide by appropriate orders or regulations, existing contracts and agreements to which carriers whose transportation systems have been taken under, or which may be taken pursuant to, the provisions of this order are parties, shall remain in full force and effect. Nothing in this order shall have the effect of suspending or releasing any obligation owed to any carrier affected hereby, and all payments shall be made by the persons obligated to the carrier to which they are or may become due. Except as the Secretary may otherwise direct, there may be made, in due course, payments of dividends on stock, and of principal, interest, sinking funds, and all other distributions upon bonds, debentures, and other obligations; and expenditures may

(Continued on p. 2505)

CONTENTS

THE PRESIDENT

Executive Order	Page
Possession, control, and operation of certain railroads.....	2503

EXECUTIVE AGENCIES

Agriculture Department	
Proposed rule making:	
Peaches in North and South Carolina:	
Decision with respect to marketing agreement and order.....	2543
Referendum to be conducted among producers and designation of agents.....	2549
Poultry, dressed, and dressed domestic rabbits and edible products.....	2542

Alien Property, Office of

Notices:	
Vesting orders, etc:	
Bender, Hans.....	2556
Bliss, Arthur Ames, and Laura Neuhans Blass.....	2555
Krause, Dr. George A.....	2557
Meier, Caroline.....	2557
Osaka Marine & Fire Insurance Co., Ltd. and Mitsubishi Marine & Fire Insurance Co., Ltd.....	2557
Reger, Mrs. B.....	2553
Saechsische Staatsbank.....	2558
Schech, Caroline.....	2556
Schulke, Hedwig.....	2553
Stoekler, Clara.....	2559
Usuli, Harumi.....	2559
Wahl, H. G.....	2559
Weigl, Mary.....	2560
Woy, Margarethe.....	2561
Yasui, Haruno, et al.....	2560

Army Department

Rules and regulations:	
New Mexico and California; list of Executive orders, proclamations and public land orders affecting military reservations.....	2507

Civil Service Commission

Rules and regulations:	
Competitive service, list of positions excepted.....	2506
Personnel, transfer to public international organizations in which U. S. Government participates or to American missions.....	2506



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CONTENTS—Continued

Civil Service Commission—Continued	Page
Rules and regulations—Continued	
Transitional procedures, special.....	2506
Defense, Secretary of	
Rules and regulations:	
Armed forces and Joint Chiefs of Staff, functions.....	2537
Domestic Commerce, Office of	
Rules and regulations:	
Allocations and export priorities system operation:	
Basic rules.....	2516
Export orders for nitrogenous fertilizer materials; use and effect of symbol CXN.....	2522
Export orders for tinplate; use and effect of symbols CXS.....	2522
Export preference assistance, restricted.....	2519

CONTENTS—Continued

Domestic Commerce, Office of—Continued	Page
Rules and regulations—Continued	
Allocations and export priorities system operation—Con.	
Review-appeals procedure.....	2523
Steel, copper and aluminum; special rules for placing and scheduling certified orders.....	2522
Delegations of authority:	
Compliance commissioner functions.....	2509
Delegation of certain powers.....	2508
Functions transferred from Office of Materials Distribution:	
Materials orders:	
Antimony.....	2530
Cans.....	2531
Special restrictions.....	2533
Cinchona bark and quinine.....	2533
Rubber, synthetic rubber and products.....	2535
Tin.....	2524
Procedural rules; compliance procedure.....	2511
Transfer of regulations; Office of Materials Distribution:	
Compliance procedure.....	2537
Delegation of authority.....	2537
Federal Power Commission	
Notices:	
Hearings, etc..	
Atlantic Seaboard Corp. et al.....	2551
Northern Natural Gas Co.....	2553
Tennessee Gas Transmission Co.....	2552
Federal Reserve System	
Rules and regulations:	
Discount rates; buying rates on bills.....	2507
Land Management, Bureau of	
Notices:	
Alaska; shore space restorations (2 documents).....	2550, 2551
California; notice for filing objections to withdrawal of public land for use of Department of Army.....	2550
Rules and regulations:	
California; withdrawal of public land for use of Department of Army.....	2542
New Mexico; modification of Executive order and public land orders withdrawing public lands for use of War Department.....	2542
Materials Distribution, Office of	
Rules and regulations:	
Delegations of authority: revocation.....	2540
Redesignation of orders:	
Allocations and export priorities system operation.....	2540
Antimony.....	2540
Cinchona bark, quinine and quindine.....	2540
Containers.....	2540
Delegations of authority.....	2540
Rubber, synthetic rubber and products.....	2540
Tin.....	2540
National Bureau of Standards	
Rules and regulations:	
Organization.....	2508
Major organization units.....	2508
Transcript services.....	2507
Procedures.....	2508

CONTENTS—Continued

Post Office Department	Page
Rules and regulations:	
Madagascar and dependencies; parcel post rates.....	2541
Registry system, insurance and collect-on-delivery systems; declaration of full value of registered mail.....	2541
Public Health Service	
Rules and regulations:	
Commissioned officers; foreign service allowances.....	2541
Public Housing Administration	
Rules and regulations:	
War housing program, policy; disposition of federally owned war housing projects.....	2537
Securities and Exchange Commission	
Notices:	
Hearings, etc..	
American Power & Light Co. (2 documents).....	2554, 2555
East Coast Public Service Co. et al.....	2553
Portland Gas & Coke Co.....	2554

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Title 3—The President	Page
Chapter II—Executive orders:	
5326 (see PLO 474).....	2542
9029 (modified by PLO 473).....	2542
9526 (see PLO 473).....	2542
9830 (see T. 5, § 6.4).....	2506
9957.....	2503
Title 5—Administrative Personnel	
Chapter I—Civil Service Commission:	
Part 6—Exceptions from the competitive service.....	2506
Part 10—Special transitional procedures.....	2506
Part 26—Transfer of personnel to public international organizations in which the United States Government participates or to American Missions.....	2506
Title 7—Agriculture	
Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)	
Part 56—Dressed poultry and dressed domestic rabbits and edible products thereof (inspection and certification for condition and wholesomeness) (proposed).....	2542
Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)	
Part 982—Peaches grown in North and South Carolina (proposed) (2 documents).....	2543, 2549

CODIFICATION GUIDE—Con.

Title 10—Army	Page
Chapter V—Military Reservations and National Cemeteries:	
Part 501—List of Executive orders, proclamations and public land orders affecting military reservations.....	2507
Title 12—Banks and Banking	
Chapter II—Federal Reserve System:	
Part 224—Discount rates.....	2507
Title 15—Commerce.	
Chapter II—National Bureau of Standards, Department of Commerce:	
Part 211—Transcript services...	2507
Part 252—Organization of the National Bureau of Standards.....	2508
Part 253—Major organization units.....	2508
Part 254—Procedures.....	2508
Chapter III—Office of Domestic Commerce, Bureau of Foreign and Domestic Commerce, Department of Commerce:	
Part 329—Delegations of authority for the Office of Domestic Commerce (2 documents).....	2508, 2509
Part 330—General organization and functions.....	2511
Part 334—Procedural rules.....	2511
Part 336—Regulations applicable to the operation of the allocations and export priorities system (6 documents).....	2516, 2519, 2522, 2523
Part 338—Materials orders (6 documents).....	2524, 2530, 2531, 2533, 2535
Part 372—Compliance procedure of Office of Materials Distribution.....	2537
Part 373—Office of Materials Distribution, delegation of authority.....	2537
Title 24—Housing Credit	
Chapter VI—Public Housing Administration:	
Part 631—War housing program: policy.....	2537
Title 32—National Defense	
Chapter I—Secretary of Defense:	
Part 1—Functions of the Armed Forces and the Joint Chiefs of Staff.....	2537
Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce:	
Part 903—Delegations of authority (2 documents).....	2540
Part 945—Regulations applicable to the operation of the allocations and export priorities system.....	2540
Part 1001—Tin.....	2540
Part 1138—Antimony.....	2540
Part 3270—Containers.....	2540
Part 3293—Cinchona bark, quinine and quindine.....	2540
Part 4600—Rubber, synthetic rubber and products thereof..	2540

CODIFICATION GUIDE—Con.

Title 39—Postal Service	Page
Chapter I—Post Office Department:	
Part 16—Registry system: insurance and collect-on-delivery services.....	2541
Part 127—International postal service: Postage rates, service available, and instructions for mailing.....	2541
Title 42—Public Health	
Chapter I—Public Health Service, Federal Security Agency:	
Part 21—Commissioned officers..	2541
Title 43—Public Lands: Interior	
Chapter I—Bureau of Land Management, Department of the Interior:	
Appendix—Public land orders:	
7 (modified by PLO 473).....	2542
173 (modified by PLO 473).....	2542
473.....	2542
474.....	2542

be made for other ordinary corporate purposes.

6. Until further order of the President or the Secretary, the said transportation systems shall be managed and operated under the terms and conditions of employment in effect at the time possession is taken under this order, without prejudice to existing equities or to the effectiveness of such retroactive provisions as may be included in the final settlement of the disputes between the carriers and the workers. The Secretary shall recognize the right of the workers to continue their membership in labor organizations, to bargain collectively through representatives of their own choosing with the representatives of the owners of the carriers, subject to the provisions of applicable law, as to disputes between the carriers and the workers; and to engage in concerted activities for the purpose of such collective bargaining or for other mutual aid or protection, provided that in his opinion such concerted activities do not interfere with the operation of the transportation systems taken hereunder, or which may be taken pursuant hereto.

7. Except as this order otherwise provides and except as the Secretary may otherwise direct, the operation of the transportation systems taken hereunder, or which may be taken pursuant hereto, shall be in conformity with the Interstate Commerce Act, as amended, the Railway Labor Act, as amended, the Safety Appliance Acts, the Employers' Liability Acts, and other applicable Federal and State laws, Executive orders, local ordinances, and rules and regulations issued pursuant to such laws, Executive orders, and ordinances.

8. Except with the prior written consent of the Secretary, no receivership, reorganization, or similar proceeding affecting any carrier whose transportation system is taken hereunder, or which may be taken pursuant hereto, shall be instituted; and no attachment by mesne process, garnishment, execution, or otherwise shall be levied on or against any

of the real or personal property or other assets of any such carrier; provided that nothing herein shall prevent or require approval by the Secretary of any action authorized or required by any interlocutory or final decree of any United States court in reorganization proceedings now pending under the Bankruptcy Act or in any equity receivership cases now pending.

9. The Secretary is authorized to furnish protection for persons employed or seeking employment in or with the transportation systems of which possession is taken hereunder, or which may be taken pursuant hereto; to furnish protection for such transportation systems; and to furnish equipment, manpower, and other facilities or services deemed necessary to carry out the provisions, and to accomplish the purposes, of this order.

10. From and after 12 o'clock noon, Eastern Standard Time, on the said 10th day of May, 1948, all properties taken under this order shall be conclusively deemed to be within the possession and control of the United States without further act or notice.

11. Possession, control, and operation of any transportation system, or any part thereof, or of any real or personal property taken under this order, or which may be taken pursuant hereto, shall be terminated by the Secretary when he determines that such possession, control, and operation are no longer necessary to carry out the provisions, and to accomplish the purposes, of this order.

HARRY S. TRULIAN

THE WHITE HOUSE,
May 10, 1948.

LIST

EASTERN REGION

Akron, Canton & Youngstown Railroad Co.
Ann Arbor Railroad Company
Baltimore & Ohio Railroad Company
B & O Chicago Terminal R. R. Co.
Curtis Bay Railroad Co.
Strouds Creek & Muddlety R. R.
Baltimore & Lake Erie Railroad Company
Boston and Maine Railroad
Brooklyn Eastern District Terminal
Buffalo Creek Railroad
Bush Terminal Railroad Company
Canadian National Railways
Canadian Natl. Ry.—Lines in New England
Champlain & St. Lawrence Railroad
United States & Canada Railroad
St. Clair Tunnel Company
Canadian Pacific Railway Co.
Central Vermont Railway, Inc.
Chesapeake & Ohio Railway Co.
Pere Marquette District
Fort Street Union Depot Co.
Chicago, Indianapolis & Louisville Ry. Co.
Cincinnati Union Terminal Company
Delaware & Hudson Railroad Corporation
Delaware, Lackawanna & Western R. R. Co.
Detroit and Toledo Shore Line R. R. Co.
Detroit Terminal Railroad Company
Detroit, Toledo & Ironton Railroad Co.
Erie Railroad Company
Grand Trunk Western Railroad Company
Huntingdon & Broad Top Mt. R. R. & Coal Co.
Indianapolis Union Railway Co.
Jay Street Connecting R. R. Co.
Lake Terminal Railroad Company
Lehigh & New England Railroad Company
Lehigh Valley Railroad Company
Maine Central Railroad Company
Portland Terminal Company

McKeesport Connecting Railroad
Monongahela Railway Company
Montour Railroad Company
New York Central R. R. (Full Line Agreements)

NYC RR—Buffalo and East
NYC RR—West of Buffalo
Michigan Central Railroad
C. C. & St. L. Railway
Peoria & Eastern Railway
L. & J. B. & Railroad Co.
Boston & Albany Railroad
Indiana Harbor Belt Railroad
Chicago River & Indiana (C. J. Ry.)
Pittsburgh & Lake Erie R. R. (L. E. & E.)
Cleveland Union Terminals
Ohio Central
Federal Valley
New York, Chicago & St. Louis R. R. Co.
New York Dock Railway
New York, New Haven & Hartford Railroad Co.

Northampton & Bath Railroad Company
Pennsylvania Railroad Company
Baltimore & Eastern Railroad Co.
Long Island Rail Road Company
Pennsylvania-Reading Seashore Lines
Pittsburgh & West Virginia Railway Co.
Pittsburgh, Chartiers & Youghiogheny Ry.
Reading Company
River Terminal Railway Co.
Staten Island Rapid Transit Railway
Union Freight R. R. Co. (Boston)
Washington Terminal Company
Wheeling & Lake Erie Railway Co.
Lorain & West Virginia Railway Co.

SOUTHEASTERN REGION

Atlantic Coast Line
Atlanta & West Point R. R.
Western Railway of Alabama
Atlanta Joint Terminals
Central of Georgia Ry.
Charleston & Western Carolina Ry.
Chesapeake & Ohio—Chesapeake Dist.
Cincinnati R. R.
Florida East Coast Ry.
Georgia R. R.
Gulf, Mobile & Ohio R. R.
Jacksonville Terminal Company
Kentucky & Indiana Terminal R. R.
Louisville & Nashville R. R.
Nashville, Chattanooga & St. Louis Ry.
Norfolk & Portsmouth Belt Line R. R.
Norfolk & Western Ry.
Richmond, Fredericksburg & Potomac R. R.
Seaboard Air Line Ry.
Southern
Alabama Great Southern
Cin., Burnside & Cumberland River Ry.
Cin., New Orleans & Texas Pacific Ry.
Georgia Southern & Florida Ry.
Harriman & Northeastern R. R.
New Orleans & Northeastern
New Orleans Terminal
St. Johns River Terminal
Tennessee Central Railroad
Virginian Ry.

WESTERN REGION

Atchison, Topeka & Santa Fe Ry.
Gulf, Colorado & Santa Fe Ry.
Panhandle & Santa Fe Ry.
Belt Ry. Co. of Chicago
Burlington-Rock Island R. R.
Camas Prairie R. R.
Chicago & Eastern Illinois R. R.
Chicago & Illinois Midland Ry.
Chicago & North Western Ry.
Chicago & Western Indiana R. R.
Chicago, Burlington & Quincy R. R.
Chicago Great Western Ry. (Inc. S. St. Paul Terminal)
Chicago, Milwaukee, St. Paul & Pacific R. R.
Chicago, Terre Haute & Southeastern Ry.
Chicago, Rock Island & Pacific Ry.
Chicago, St. Paul, Minneapolis & Omaha Ry.
Colorado & Southern Ry.
Colorado & Wyoming Ry.

Davenport, Rock Island & Northwestern Ry.
Denver & Rio Grande Western R. R.
Denver & Rio Grande Western R. R. (Former D&SL)
Des Moines Union Ry.
Duluth, Missabe & Iron Range Ry. (Iron Range Div.)
Duluth, Missabe & Iron Range Ry. (Missabe Div.)
Duluth, Winnipeg & Pacific Ry.
East St. Louis Junction R. R.
Elgin, Joliet & Eastern Ry.
Fort Worth & Denver City Ry.
Wichita Valley Ry.
Galveston, Houston & Henderson R. R.
Great Northern Ry.
Green Bay & Western R. R.
Kewaunee, Green Bay & Western R. R.
Gulf Coast Lines—Comprising
Asherton & Gulf Ry.
Asphalt Belt Ry.
Beaumont, Sour Lake & Western Ry.
Houston & Brazos Valley Ry.
Houston North Shore Ry.
Iberia, St. Mary & Eastern R. R.
International-Great Northern R. R.
New Iberia & Northern R. R.
New Orleans, Texas & Mexico Ry.
Orange & Northwestern R. R.
Rio Grande City Ry.
St. Louis, Brownsville & Mexico Ry.
San Antonio Southern Ry.
San Antonio, Uvalde & Gulf R. R.
San Benito & Rio Grande Valley Ry.
Sugar Land Ry.
Houston Belt & Terminal Ry.
Illinois Central R. R.
Chicago & Illinois Western R. R.
Kansas City Southern Ry.
Kansas City Terminal Ry.
Los Angeles Junction Ry.
Louisiana & Arkansas Ry.
Manufacturers Ry.
Midland Valley R. R.
Kansas, Oklahoma & Gulf Ry.
Oklahoma City-ADA-Atoka Ry.
Minneapolis & St. Louis Ry.
Railway Transfer Co. of City of Minneapolis
Minneapolis, St. Paul & Sault Ste. Marie R. R.
Duluth, South Shore & Atlantic Ry.
Mineral Range R. R.
Minnesota Transfer Ry.
Missouri-Kansas-Texas R. R.
Missouri-Kansas-Texas R. R. Co. of Texas.
Missouri Pacific R. R.
Northern Pacific Ry.
Northern Pacific Terminal Co. of Oregon.
Northwestern Pacific R. R.
Ogden Union Ry. & Depot Co.
Oregon, California & Eastern Ry.
Peoria & Pekin Union Ry.
Port Terminal Railroad Association.
St. Joseph Terminal R. R.
St. Louis-San Francisco Ry.
St. Louis, San Francisco & Texas Ry.
St. Louis Southwestern Ry.
St. Louis Southwestern Ry. Co. of Texas.
St. Paul Union Depot Co.
San Diego & Arizona Eastern Ry.
Sioux City Terminal Ry.
Southern Pacific Co. (Pacific Lines)—excluding former El Paso & Southwestern System.
Southern Pacific Co.—Former El Paso & Southwestern System.
Southern Pacific Co.—Former Arizona Eastern R. R.—Phoenix Dist.
Spokane, Portland & Seattle Ry.
Oregon Electric Ry.
Oregon Trunk Ry.
Terminal Railroad Association of St. Louis.
Texas & New Orleans R. R.
Texas & Pacific Ry.
Abilene & Southern Ry.
Fort Worth Belt Ry.
Texas-New Mexico Ry.
Texas Short Line Ry.
Weatherford, Mineral Wells & Northwestern Ry.
Texas Mexican Ry.

Texas Pacific-Missouri Pacific Terminal R. R. of New Orleans.
Union Pacific R. R.
Union Railway Co. (Memphis).
Union Terminal Co. (Dallas).
Wabash R. R.—Lines West of Detroit and Toledo.
Wabash R. R.—Lines East of Detroit (Buffalo Div.).
Western Pacific R. R.

[F. R. Doc. 48-4290; Filed, May 10, 1948; 1:35 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

PART 10—SPECIAL TRANSITIONAL PROCEDURES

PART 26—TRANSFER OF PERSONNEL TO PUBLIC INTERNATIONAL ORGANIZATIONS IN WHICH THE UNITED STATES GOVERNMENT PARTICIPATES OR TO AMERICAN MISSIONS

MISCELLANEOUS AMENDMENTS

1. Under authority of § 6.1 (a) of Executive Order No. 9830 and at the request of the agencies concerned the Commission has determined that the positions listed below should be excepted from the competitive service. Effective upon publication in the FEDERAL REGISTER, § 6.4 (a) is amended in part as follows:

§ 6.4 *Lists of positions excepted from the competitive service*—(a) *Schedule A.* * * *

(5) *Navy Department.* * * *

(x) Scientific and professional positions when filled by bona fide members of the faculty of an accredited college or university not to exceed 120 days in the period of one year in any individual case and the total number of appointments not to exceed 100 at any one time.

(xi) Scientific assistants whose salaries shall not aggregate more than \$832 a year. Only bona fide students pursuing scientific courses at colleges or universities shall be eligible for appointment under this subdivision. Employment under this subdivision shall not exceed 180 working days in any one year.

(xii) Professional and subprofessional positions in the field of research when filled by graduate students at accredited colleges or universities provided that such research work is to be used by the student as a basis for securing certain academic credit toward a graduate degree. The total employment in any one case shall not exceed one year and such employment may be continued under this provision only so long as these conditions are met. The total number of positions to be filled under this provision may not exceed 100 at any one time.

(49) *Economic Cooperation Administration.* (i) Not to exceed twenty-five positions of a policy determining character at salaries in excess of \$10,000 but not in excess of \$15,000 per annum.

(Sec. 6.1 (a) E. O. 9830, 12 F. R. 1259)

2. Section 10.111 (d) is amended to read as follows:

§ 10.111 Reemployment benefits after transfer

(d) An employee who was transferred within the Government service with reemployment rights, or an employee who was transferred with reemployment rights from a Government position for employment in an essential activity conducted by a public or private enterprise (including a public international organization in which the United States Government participates) shall not lose his reemployment rights upon (1) transfer or reassignment within an agency; (2) transfer by Presidential order or act of Congress; (3) entry into military service (Provided, That at the time of such entry he would have acquired restoration rights had he entered military service from his original agency) or (4) transfer from one public international organization to another with the function in which engaged when such function is transferred by an international agreement in which the United States participates.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

3. Section 26.8 is amended to read as follows:

§ 26.8 Reemployment. (a) An employee transferred under Executive Order 9721 or 9862 must meet the following conditions in order to have a right to reemployment under Executive Order, 9721 or 9862:

(1) He must have been serving under a probational or permanent civil service appointment prior to such transfer or he must have met the conditions for acquisition of a competitive status under section 2 of Executive Order 9721. When reemployment rights depend on acquisition of status under section 2 of Executive Order 9721, request for such determination shall be presented to the Commission by the agency concerned promptly after receipt of application for reemployment, unless such determination was made theretofore.

(2) He must have been terminated without prejudice by the public international organization or American Mission to which transferred within three years of the date of his separation for transfer to such organization or within three years of the date of Executive Order 9721, whichever is later.

(3) He must apply for reemployment to his former agency or department (or its successor) within 90 days of his termination by such organization.

(4) He must be qualified physically to perform the duties of his former position or one of like seniority, status, and pay.

(b) An employee transferred under Executive Order 9721 or 9862 shall not lose his reemployment rights upon—(1) transfer or reassignment within an agency; (2) transfer by Presidential order or act of Congress; (3) entry into military service (Provided, That at the time of such entry he would have acquired restoration rights had he entered military service from his original agency) or (4) transfer from one public international organization to another with the function in which engaged when

such function is transferred by an international agreement in which the United States participates.

(c) Upon meeting the conditions for reemployment under Executive Order 9721 or 9862, the transferee's former agency or department (or its successor) shall reemploy him within 30 days of his application for reemployment. Such reemployment shall be in the employee's former position or in a position of like seniority, status and pay.

(d) Upon reemployment under Executive Order 9721 or 9862, an employee shall be given the seniority and, to the extent consistent with law, the pay to which he would have been entitled had he remained continuously with the agency in his former position. He shall be considered as having competitive status and tenure and shall be given full credit for completion of probation for service in the international organization or American Mission since acquisition of status. Any sick leave to his credit at the time of his separation for transfer shall be recredited to him. (R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] H. B. MITCHELL,

President.

[P. R. Doc. 48-4173; Filed, May 10, 1948; 8:51 a. m.]

TITLE 10—ARMY

Chapter V—Military Reservations and National Cemeteries

PART 501—LIST OF EXECUTIVE ORDERS, PROCLAMATIONS AND PUBLIC LAND ORDERS AFFECTING MILITARY RESERVATIONS

NEW MEXICO, CALIFORNIA

CROSS REFERENCE: For order modifying Executive Order 9029, as amended, Public Land Order 7, as amended, and Public Land Order 173, which withdrew public lands in New Mexico for the use of the War Department and which were listed in the tabulation contained in § 501.1, see Public Land Order 473 in the Appendix to Chapter I of Title 43, *infra*. For order withdrawing public land in California for the use of the Department of the Army for harbor improvement purposes, which takes precedence over but does not modify Executive Order 5326, see Public Land Order 474, *infra*.

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of Federal Reserve System

PART 224—DISCOUNT RATES

BUYING RATES ON BILLS

Pursuant to section 14 (d) of the Federal Reserve Act, and for the purpose of adjusting discount rates with a view of accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 224 is amended by moving footnote 1 of § 224.5 from the position im-

mediately following the rate at the Federal Reserve Bank of New York to the position immediately following the words "prime bankers' acceptances" in such section, and by changing such footnote to read as follows:

* Rate shown for bankers' acceptances also applies to trade acceptances at Federal Reserve Bank of New York. In addition, it applies to purchases of Government securities under resale agreement at the following Federal Reserve Banks, with the following effective dates: Boston, March 26, 1948; New York, February 24, 1948; Philadelphia, April 2, 1948; Cleveland, March 15, 1948; Chicago, March 20, 1948; San Francisco, April 16, 1948.

For the reasons and good cause found as stated in § 224.8, there is no notice, public participation or deferred effective date in connection with this action.

(Sec. 14 (d), 38 Stat. 264 as amended; 12 U. S. C. 357)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,

[SEAL] S. R. CARPENTER,

Secretary.

[P. R. Doc. 48-4175; Filed, May 10, 1948; 8:51 a. m.]

TITLE 15—COMMERCE

Chapter II—National Bureau of Standards, Department of Commerce

PART 211—TRANSCRIPT SERVICES

In accordance with the provisions of sections 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on these schedules of fees are unnecessary for the reason that such procedure would, because of the nature of these rules, serve no useful purpose.

These rules shall become effective upon the date of publication in the FEDERAL REGISTER.

Part 211 *Transcript services*, is added, to read as follows:

Sec.

211.1 General.

211.2 Microfilm.

211.3 Photographs.

211.4 Motion pictures.

211.59 Certification of publications.

AUTHORITY: §§ 211.1 to 211.59, inclusive, issued under 49 Stat. 232; 15 U. S. C. 189a.

§ 211.1 *General.* Transcripts of studies and records, and certification of either printed or processed publications, will be furnished upon receipt of a written request, accompanied by sufficient information to enable the bureau to properly identify the specific study, record, or publication desired. Fees for such transcripts or certifications will be charged in accordance with the fees itemized in the subsequent sections.

§ 211.2 Microfilm.

Item and description	Fee
R-1-2.1 Periodical articles, any article in a single volume of a periodical, per article	\$0.50
R-1-2.2 Books and serial publications, for each 50 pages or fraction thereof	.50

These prices are computed on cost factors and are therefore subject to change.

§ 211.3 Photoprints.

Item and description	Fee
R-1-3.1 Any single volume, for each 5 pages or fraction thereof.	\$0.50

This price is computed on cost factors and is therefore subject to change.

§ 211.4 Motion pictures.

Item and description	Fee
R-2-4.1 Motion picture film, Subject: "Silicate Cement" 800 feet of sound, color film, 16 mm. running time 18½ minutes.	\$85.00

This is an approximate price. The actual cost will depend on the number of copies ordered by the Bureau at a specific time on the basis of requests received.

§ 211.99 Certification of publications.

Item and description	Fee
R-3-99.1 Certification of any bureau publication whether printed or processed (not including cost of the publication)	\$1.00

For information concerning titles and prices of bureau publications address inquiries to the Office of Scientific Publications, National Bureau of Standards, Washington 25, D. C.

[SEAL] E. C. CRITTENDEN,
Acting Director.

Approved:

WILLIAM C. FOSTER,
Acting Secretary of Commerce.

[F. R. Doc. 48-4189; Filed, May 10, 1948; 8:54 a. m.]

PART 252—ORGANIZATION OF THE NATIONAL BUREAU OF STANDARDS

PART 253—MAJOR ORGANIZATION UNITS MISCELLANEOUS AMENDMENTS

1. Section 252.1 *Organization* (12 F. R. 5866) is amended by changing the name of Division 5 "Mechanics" to "Chemistry," the name of Division 6 "Chemistry" to "Mechanics," and the name of Division 13 "Ordinance Development" to "Electronics."

2. Section 253.2 (a) (12 F. R. 5866) items (5) (6) and (13) are amended to read as follows:

§ 253.2 *Scientific and technical divisions*—(a) *Purpose and functions.* * * *

(5) *Division 5, chemistry.* (i) Chemical composition, purity and behavior of paints, lacquers and varnishes; detergents; platinum metals; analytical chemical reagents; hydrocarbons and other organic substances; uranium and related materials; gases; and (ii) analytical chemistry, chemical microscopy, spectrochemical analysis, electrodeposition, physical chemistry, thermochemistry.

(6) *Division 6; mechanics.* (i) Sound aerodynamics, engineering mechanics, hydraulics; and (ii) aeronautic and engineering instruments, mechanical appliances.

(13) *Division 13; electronics.* (i) Electronic ordnance devices; and (ii) applications of electronics to scientific and technical problems.

The foregoing amendments are effective May 5, 1948.

(R. S. 161, sec. 3, 60 Stat. 238; 5 U. S. C. 22, 1002)

[SEAL] E. C. CRITTENDEN,
Acting Director

Approved:

WILLIAM C. FOSTER,
Acting Secretary of Commerce.

[F. R. Doc. 49-4190; Filed, May 10, 1948; 8:54 a. m.]

PART 254—PROCEDURES

TRANSCRIPT SERVICES

Section 254.6 Transcript services, is added as follows:

§ 254.6 *Transcript services.* The Bureau is authorized to furnish transcripts of its studies and records, and certifications of its printed and processed publications, to any person, firm or corporation, upon receipt of a written request; *Provided*, That a fee for such service be charged sufficient to cover the cost of the service rendered as set forth in 15 CFR, Part 211.

Requests for such transcripts or certifications should be in writing, and should provide sufficient information to enable the Bureau to properly identify the specific study, record, or publication referred to.

(R. S. 161, 5 U. S. C. 22)

[SEAL] E. C. CRITTENDEN,
Acting Director

Approved:

WILLIAM C. FOSTER,
Acting Secretary of Commerce.

[F. R. Doc. 48-4191; Filed, May 10, 1948; 8:54 a. m.]

Chapter III—Office of Domestic Commerce, Bureau of Foreign and Domestic Commerce, Department of Commerce

[Materials Control Regulation 1,¹ as Amended May 7, 1948]

PART 329—DELEGATIONS OF AUTHORITY FOR THE OFFICE OF DOMESTIC COMMERCE

DELEGATIONS OF CERTAIN POWERS UNDER EXECUTIVE ORDERS 9841 and 9942

Effective May 7, 1948, § 329.1 *Materials Control Regulation 1* (formerly § 903.0) as previously amended (12 F. R. 2995, 6359, 6433, 13 F. R. 2262) is amended to read as follows:

§ 329.1 *Materials Control Regulation 1.*

EXPLANATION

(a) *Explanation.* By Executive order, the President has transferred to the

¹ Formerly: Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 903—Delegations of Authority.

Secretary of Commerce certain functions, as follows:

(1) By section 203 of Part II of Executive Order 9841, dated April 23, 1947 (12 F. R. 2645) certain functions of the Temporary Controls Administrator, including "allocation and priority" functions under the Second War Powers Act (56 Stat. 177) as amended and extended.

(2) By paragraphs 1 and 3 of Executive Order 9942, dated April 1, 1948 (13 F. R. 1823) certain functions under the Rubber Act of 1948 (Public Law 469, 80th Congress)

This regulation provides for the performance of some of those transferred functions. Hereafter, they are to be performed by the Director of the Office of Domestic Commerce, Bureau of Foreign and Domestic Commerce, Department of Commerce. Heretofore, they were performed by the Office of Materials Distribution.

This regulation also continues in effect certain regulations, orders and other actions previously taken relating to the transferred functions.

DELEGATION

(b) *Delegation to the Director of the Office of Domestic Commerce.* The Director of the Office of Domestic Commerce is hereby authorized to perform the functions and to exercise the powers, authorities, and discretion now or hereafter vested in the Secretary of Commerce by Section 203 of Part II of Executive Order 9841 and by paragraphs 1 and 3 of Executive Order 9942, except those specified in paragraphs (c) and (d) below.

The authority hereby delegated to the director may be exercised in such manner as he may prescribe and may be re-delegated by him, subject to his discretion and control, to such officers of the Department of Commerce, whether or not within the Office of Domestic Commerce.

(c) *Delegations regarding compliance matters.* The Secretary of Commerce may authorize such compliance commissioners or other officials as he may designate to perform such functions and exercise such powers, authorities and discretion now or hereafter vested in the Secretary of Commerce under section 203 (a) of Part II of Executive Order 9841 and under paragraphs 1 and 3 of Executive Order 9942 and subject to such conditions or restrictions as he may prescribe. Certain authorization for such functions is contained in Materials Control Regulation 2 (§ 329.1)

(d) *Delegation to the Director of the Division of Liquidation.* The Secretary of Commerce has delegated to the Director of the Division of Liquidation, Office of the Secretary, Department of Commerce the following functions transferred by Executive Order 9841.

(1) Functions under section 124 of the Internal Revenue Code, as amended (tax amortization)

(2) Functions with respect to claims under the Contract Settlement Act of 1944 and claims under any other statute, based on actions of, or arising out of instructions or requests of the War Production Board or any of its predecessor agencies.

(3) Functions with respect to claims relating to property requisitioned by the Chairman of the War Production Board or by any of his predecessors.

(4) Functions under the Renegotiation Act of 1943.

CONFIRMATION OF ACTIONS

(e) *Confirmation of certain actions.* The following rules, regulations, orders, directives, directions, authorizations, certificates, procedural documents and other actions which are in effect on May 7, 1948 are hereby adopted, ratified and confirmed and shall remain in full force and effect until they expire by their terms or are revoked or amended:

(1) All those issued or taken by or under authority of the Director of the Office of Materials Distribution.

(2) All those issued or taken by or under authority of the Temporary Controls Administrator, the Civilian Production Administrator, the War Production Board, or in the name of the War Production Board or the Civilian Production Administration, countersigned or attested by the Recording Secretary or other authorized official, or in accordance with Civilian Production Administration Regulation 1, or in accordance with Office of Temporary Controls Regulation 1, and which were adopted, ratified and confirmed by the Secretary of Commerce in the original issuance of this regulation on May 2, 1947 (12 F. R. 2995)

(Second War Powers Act, as amended and extended, 56 Stat. 177; Pub. Laws 188, 427, 469, 80th Cong., E. O. 9841, April 23, 1947, 12 F. R. 2645; E. O. 9942, April 1, 1948, 13 F. R. 1823)

Issued this 7th day of May 1948.

WILLIAM C. FOSTER,
Acting Secretary of Commerce.

[F. R. Doc. 48-4215; Filed, May 7, 1948;
10:07 a. m.]

[Materials Control Reg. 2,¹ as Amended
May 7, 1948]

PART 329—DELEGATIONS OF AUTHORITY FOR THE OFFICE OF DOMESTIC COMMERCE

COMPLIANCE COMMISSIONER FUNCTIONS FOR OFFICE OF DOMESTIC COMMERCE

Section 329.1 *Materials Control Regulation 2* (formerly § 373.1) is amended to read as follows:

§ 329.1 *Materials Control Regulation 2*—(a) *Explanation.* Pursuant to Department Order 76, as amended, there has been established in the Office of the Secretary of Commerce the position of Compliance Commissioner for the Office of Domestic Commerce. This section provides for the performance of certain functions by the Compliance Commissioner and by Deputy Compliance Commissioners to assure compliance with orders, regulations and other administrative actions of the Office of Domestic Commerce, including those of the Office of Materials Distribution, the War Pro-

duction Board and the Civilian Production Administration, the responsibility for which has been transferred to the Director of the Office of Domestic Commerce. This section also provides for the taking and disposition of appeals from suspension orders issued after a hearing before a Compliance Commissioner, or from consent orders; and for the establishment of more detailed policies, standards and procedures for the conduct of hearings and such other matters.

(b) *Deputy compliance commissioners.* The Compliance Commissioner is hereby authorized to select and to designate Deputy Compliance Commissioners to assist in performing the functions described in paragraph (c) of this section in respect to cases referred to the Compliance Commissioner by the Office of Domestic Commerce.

(c) *Delegation of functions to commissioners.* The Compliance Commissioner and any Deputy Compliance Commissioners designated pursuant to paragraph (b) of this section are hereby authorized:

(1) To consider all charges of violation of orders, regulations and other administrative actions referred to them;

(2) To preside at hearings held for this purpose; to administer oaths and affirmations; to hold conferences for the settlement or simplification of the issues by consent of the parties, although not to adjust cases; to dispose of procedural requests or similar matters; to rule upon offers of proof and receive relevant evidence; to determine the facts; and to recommend appropriate administrative action including the issuance of suspension orders in proper cases; and to recommend referral of cases to the Department of Justice for criminal or civil proceedings whenever the Commissioner holding the hearing considers such referral to be appropriate;

(3) To preside at hearings and investigatory proceedings held in connection with investigations of alleged violations even though no formal charge has been made;

(4) For the purpose of obtaining any information, verifying any report required, or making any investigations concerning the violation of any order, regulation, or other administrative action, to administer oaths and affirmations and to require by subpoena issued in the name of the Secretary of Commerce by a Commissioner, the attendance of witnesses and the production of books, records, or other documentary or physical evidence determined by the Commissioner to be relevant;

(i) Subpoenas issued pursuant to this subparagraph shall be returnable before a Commissioner. If prior to the return date specified in the subpoena, the person against whom the subpoena is issued furnishes the Commissioner, or the person upon whose request the subpoena was issued, with a true and certified copy of the books, records, or other documentary evidence called for by the subpoena, or enters into a stipulation with him as to the information contained in such books, records, or other documentary evidence, then the production of such evidence

shall not be required at any place other than the place where the person against whom the subpoena is issued resides or transacts business;

(ii) Such subpoenas may be issued upon the request of any party to a proceeding before him and on a showing by such party that the evidence sought is of general relevance and reasonable scope, and is properly obtainable by subpoena;

(5) Commissioners are further authorized and required to furnish or have furnished to any person compelled to submit data or evidence, a copy of such data or a copy of the transcript of evidence upon payment of lawfully prescribed costs; or if such person has a copy of such data, or a transcript of such evidence, to permit him to retain the same;

(6) The reports of the Commissioners as to the facts found shall be binding upon the respondent and the Office of Domestic Commerce for the purpose of administrative compliance proceedings. On appeal by the respondent, however, the facts may be reviewed and new findings of fact made, in the manner and to the extent described in paragraph (e) of this section.

(d) *Proceedings before Commissioners*—(1) *Notice to respondent.* The hearing before the Compliance Commissioner or a Deputy Compliance Commissioner on charges of violation shall be held after reasonable notice to the person charged with the violation, who is referred to herein as the respondent, of the time, place and nature thereof, the legal authority and jurisdiction under which the hearing is to be held, and a summary statement of the charges and of the alleged facts or conduct on which the charges are based.

(2) *Conduct of hearings.* Hearings will be conducted in an impartial manner. The Commissioner shall afford the respondent and the Compliance Officer of ODC reasonable opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment where time, the nature of the procedure and the public interest permit. The burden of proof to establish the violation complained of shall be upon the Compliance Officer. The Commissioner shall not consider arguments against the policy effectuated by the order or regulation charged to have been violated. Each party shall be afforded opportunity to present his case by oral or documentary evidence and to conduct such cross-examination as may be required for a full disclosure of the facts. The Commissioner himself may also examine or cross-examine any witness. Any oral or documentary evidence relevant and material to the issues may be admitted; but irrelevant, immaterial and unduly repetitious evidence will be excluded. At the conclusion of evidence, both parties shall be given an opportunity to present oral arguments. At the close of the hearing, or within five days thereafter if request is made at the hearing, each of the parties will be permitted to submit proposed findings and conclusions with supporting reasons, although this shall not be required.

(3) *Report of findings and recommended action.* The Commissioner shall

¹ Formerly: Part 373—Office of Materials Distribution, Delegation of Authority.

proceed with all reasonable dispatch to conclude the case before him, by making findings of fact relevant to the violations charged, together with his conclusions (i) as to whether or not the facts found constituted, as charged, a violation of any order, regulation or other administrative action of the Office of Domestic Commerce or of the Director thereof, or a false or fraudulent statement or representation or concealment of a fact relevant and material to the administration or enforcement of any such administrative action, in violation of section 35 (a) of the U. S. Criminal Code; (ii) if so, whether or not the violation was wilful, or the result of gross negligence. Any such findings and conclusions adverse to the respondent must be supported by and in accordance with reliable, probative and substantial evidence, except as to any matters which may be admitted by the respondent. The Commissioner's findings and conclusions shall be stated in a written report which he shall file with the Compliance Officer of the ODC. The report shall include a recommendation for administrative action or other disposition of the case. Where the Commissioner considers it appropriate for the case to be referred to the Department of Justice for criminal or civil proceedings, with or without further administrative proceedings, his report shall be accompanied by a separate recommendation for such referral. The Commissioner shall direct the closing of the case if he finds that the facts do not constitute as charged (i) either a wilful violation or misrepresentation or (ii) a violation or misrepresentation caused by gross negligence or (iii) an unauthorized acquisition, delivery, consumption, use or disposition of materials or facilities subject to ODC orders or regulations. If an appeal from such a direction to close is not taken by the Compliance Officer of the ODC within 10 days after the filing of the Commissioner's report with the ODC the case shall be closed as to the administrative proceedings, and the Compliance Officer will so notify the respondent.

(4) The testimony and oral statements at the hearing shall be recorded, transcribed and certified by a competent stenographer. This transcript with any exhibits introduced and other papers and requests filed in the proceedings before the Commissioner, shall constitute the record for decision, and shall be certified by the Commissioner and forwarded with his report to the Compliance Officer of the ODC.

(e) *Appeals.* (1) Any person against whom a suspension or consent order has been issued by the Office of Domestic Commerce may appeal from any or all of the provisions of such order, subject to the rules prescribed for the taking of appeals. The Compliance Officer of ODC may also appeal from a Commissioner's recommendation for administrative action or from his direction for the closing of a case, in accordance with such rules. All such appeals shall be considered and determined by the Chairman of the Appeals and Review Staff of ODC, with the advice and assistance of other members of such staff. The Chairman of such

staff shall be the Director of ODC, or a Deputy designated by him for such purpose, and the other members of the Appeals and Review Staff shall be two members of the Director's staff designated by the Chairman.

(2) All appeals shall be taken in accordance with rules and procedures, not inconsistent with this section, to be approved by the Solicitor of the Department of Commerce before publication in the FEDERAL REGISTER, in accordance with paragraph (f) (2) of this section.

(3) Oral arguments upon appeal may, in the discretion of the Chairman, be heard upon the request of either party. After a review of the record of the case and in light of the appeal, and any answer and reply, the Chairman shall either deny or grant the appeal, in whole or in part. There shall be no further administrative appeal from his decision, which shall be final. On appeal by a respondent from a suspension order, the Chairman may review the facts found by the Commissioner and his conclusions, and make new findings of fact or conclusions, but he shall give due regard to the opportunity had by the Commissioner to judge the credibility of witnesses and shall not set aside any findings of fact or conclusions unless clearly erroneous. On an appeal by the Compliance Officer of ODC, the Commissioner's findings of facts and conclusions shall not be subject to review but only his recommendations. On an appeal from a consent order by the respondent the Chairman may refer the case to a Commissioner for hearing and report. On an appeal by either party, the Chairman may direct the closing of the case, or a modification of the suspension or consent order which has been issued or recommended for issuance by a Commissioner, including an increase in the restrictions or the period they remain in effect. The Chairman's decision shall be incorporated in an opinion, a copy of which shall be furnished the respondent if a suspension or consent order is issued or continued in effect, or in other cases if so directed by the Chairman. The Chairman may also at any time revoke any suspension or consent order or modify it by diminishing the period of suspension or the restrictions imposed, even though no appeal has been taken by the respondent.

(4) Upon an appeal, the Chairman may direct the reopening of the case before a Commissioner for the purpose of admitting additional evidence or rehearing by the Commissioner, and the submission of a further report on the case. After such rehearing, the Commissioner shall amend any previous findings of fact, conclusions or recommendations previously made in the case, or confirm those previously made, or make new ones, and may recommend that the suspension or consent order be continued in force, modified, or revoked, or a new order issued. His report shall be filed with the Chairman for consideration in the determination of the appeal.

(f) *Other functions.*—(1) *Stays.* The Compliance Commissioner is hereby authorized upon the application of a respondent to direct the issuance of an or-

der staying the operation of a suspension or consent order on such conditions, if any, as he may deem proper for assuring continuing compliance with ODC orders and regulations by the respondent.

(2) *Supplementary policies, standards and procedures.* The Compliance Commissioner may recommend the adoption of policies, standards and procedures to be followed by himself and the Deputy Compliance Commissioners, as well as rules and procedures for the taking and disposition of appeals and for application for stays of suspension and consent orders, not inconsistent with this section. Such policies, standards, procedures and rules shall become effective after they are approved by the Solicitor of the Department of Commerce. The official statement of such matters may be incorporated in and consolidated with the general statement of compliance procedures published in the FEDERAL REGISTER under Part 334, Procedures, of Chapter III, Bureau of Foreign and Domestic Commerce, Department of Commerce, of Title 15, Commerce.

(g) *Separation of functions.* In the performance of their functions under this section, the Compliance Commissioner and Deputy Compliance Commissioners shall be responsible to the Secretary of Commerce, and not to the Director of the ODC, and shall not be subject to the supervision or direction of the latter, or of any officer, employee or agent engaged in the performance of investigative or prosecuting functions for the ODC. The Compliance Commissioner and Deputy Compliance Commissioners shall not consult with either the respondent or the Compliance Officer of the ODC on any facts in issue at their hearings, unless upon notice and opportunity for both parties to attend and participate.

Neither the Compliance Officer of ODC nor his subordinates shall participate or advise in any decision as to the facts or conclusions as to any fact in issue, made by any Compliance Commissioner, or made by the Chairman of the Appeals and Review Staff upon an appeal.

(h) *Criminal or civil proceedings not affected.* No action by the Compliance Commissioner, a Deputy Commissioner, or the Chairman of the Appeals and Review Staff shall preclude or affect the referral of a case to the Department of Justice for criminal or civil proceedings; although any recommendation for such referral by a Compliance Commissioner will be given due consideration.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress), Pub. Law 469, 80th Congress; Executive Order 9841, April 23, 1947, 12 F. R. 2645; Executive Order 9942, April 1, 1948, 13 F. R. 1823; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

WILLIAM C. FOSTER,
Acting Secretary of Commerce.

[F. R. Doc. 48-4267; Filed, May 7, 1948; 4:56 p. m.]

PART 330—GENERAL ORGANIZATION AND FUNCTIONS

FUNCTIONS TRANSFERRED FROM OFFICE OF MATERIALS DISTRIBUTION

Part 330, Office of Domestic Commerce, General Organization and Functions, is amended as follows:

1. By adding the following at the end of § 330.1 *Creation*: "In addition, by Department Order No. 18, Amendment 1, May 7, 1948, the functions of the Office of Materials Distribution have been transferred to the Office of Domestic Commerce."

2. By adding the following at the end of § 330.2 *General purpose and functions*: "In addition to the above, the Office of Domestic Commerce carries out the purposes and functions previously carried out by the Office of Materials Distribution."¹

(R. S. 161, 5 U. S. C. 22)

Issued this 7th day of May 1948.

H. B. McCoy,
Director

Office of Domestic Commerce.

Approved:

WILLIAM C. FOSTER,
Acting Secretary of Commerce.

[F. R. Doc. 48-4216; Filed, May 7, 1948;
10:07 a. m.]

[Precedural Document 2,² as Amended
May 7, 1948]

PART 334—PROCEDURAL RULES

ODC COMPLIANCE PROCEDURE

Procedural Document 2 (formerly in Part 372) is transferred to Part 334 and is amended to read as follows:

GENERAL MATTERS

- Sec.
- 334.1 Explanation.
- 334.2 Responsibility for compliance.
- 334.3 Investigations and inspections.
- 334.4 Initial action upon reported violations.

OPPORTUNITY FOR ADJUSTMENT WITHOUT COMMISSIONER'S HEARING

- 334.5 Notice to respondent.
- 334.6 Consent orders.
- 334.7 Temporary suspension orders.
- 334.8 Referral to Compliance Commissioner.

COMMISSIONERS, HEARINGS AND REPORTS

- 334.9 Compliance Commissioners.
- 334.10 Hearings by Commissioners.

SUSPENSION ORDERS

- 334.11 Form and effect of suspension orders.
- 334.12 Effective dates of suspension orders; stays.

APPEALS

- 334.13 Appeals.

SPECIAL HEARINGS AND INVESTIGATORY PROCEEDINGS

- 334.14 Special proceedings.

MISCELLANEOUS MATTERS

- 334.15 Subpoenas.
- 334.16 Inspection and copies of record.

¹For explanation of these purposes and functions, see Part 370—General Organization and Functions of the Office of Materials Distribution (12 F. R. 6355) and § 329.1 *Materials Control Regulation 1*, as amended May 7, 1948, *supra*.

²Formerly: Part 372, Compliance Procedure of Office of Materials Distribution.

Sec.

- 334.17 Closing compliance cases.
- 334.18 Appearance.
- 334.19 Separation of functions.
- 334.20 Disqualification of Commissioner.
- 334.21 Policies, standards and procedures for compliance hearings and appeals.
- 334.22 Criminal or civil proceedings not affected by administrative proceedings.

Procedural Document 2

GENERAL MATTERS

§ 334.1 *Explanation*. The sections in this part explain the general course and method by which the Office of Domestic Commerce secures compliance with its orders, regulations and other administrative actions, including those of the Office of Materials Distribution, Civilian Production Administration and War Production Board with which it is still concerned, up to the point where particular cases are referred to the Department of Justice for civil or criminal proceedings in the courts. Such orders, regulations and administrative actions are hereafter referred to for convenience as "orders," except where the context indicates that a suspension order or consent order is referred to.

The explanatory matter below includes procedure within the Office of Domestic Commerce; the handling of cases referred to the Compliance Commissioner for consideration under the authority delegated to him and Deputy Compliance Commissioners under *Materials Control Regulation 2* (§ 329.2 of this chapter) the proceedings before such Commissioners, and administrative actions based thereon; and appeals from the decisions of the Commissioners.

§ 334.2 *Responsibility for compliance*. The Compliance Officer and the assigned counsel of the Office of Domestic Commerce are responsible for obtaining compliance with its orders. This includes authority for the handling of investigations and administrative proceedings, and recommendations and assistance to the Department of Justice for the prosecution of criminal and civil proceedings, arising out of violations of such orders.

§ 334.3 *Investigations and inspections*. The Compliance Officer has the primary responsibility within the ODC for authorizing and conducting investigations and surveys relating to compliance with orders. He has authority to inspect the books, records and other writings, premises or property of any person, and to make or cause to be made such investigations as may be necessary or appropriate in his discretion to the enforcement or administration of orders. The Compliance Officer in making inspections and investigations and in the preparation and presentation of cases before the Compliance Commissioners and to the courts, may utilize the services of officials and staffs of Government departments or agencies assigned to compliance matters. Such inspections and investigations are made under authority of Federal statutes including Title III of the Second War Powers Act of 1942, as amended, and the Rubber Act of 1948 (Pub. Law 469, 80th Cong.)

§ 334.4 *Initial action upon reported violations*. When any alleged or apparent violation is brought to the attention of the Compliance Officer, he determines whether to make a compliance investigation or compliance survey, or to close the case. If he determines that an investigation or survey should be made, he will proceed with it, or refer the case to an appropriate official for such purpose, as explained above. If the case is referred to another official, he will make the investigation or survey and submit his report and recommendations thereon to the Compliance Officer. Upon the information disclosed by the investigation or survey, the Compliance Officer determines whether it is appropriate to close the case, or to take further action. Such further action may consist of referring the case through the assigned counsel to the Department of Justice for criminal prosecution or civil proceedings, or administrative action as explained below, or both.

OPPORTUNITY FOR ADJUSTMENT WITHOUT COMMISSIONER'S HEARING

§ 334.5 *Notice to respondent*. If the Compliance Officer and General Counsel consider administrative action to be appropriate rather than or in addition to, the institution of civil or criminal proceedings, the Compliance Officer customarily sends a letter or telegram to the person charged with the violation, who is referred to as the respondent. Such communication notifies the respondent that information has been received as to facts or conduct which may constitute a violation of an order by him and may warrant the institution of administrative proceedings before a Commissioner. It contains a summary statement of such facts or conduct, refers to the order, and affords the respondent an opportunity to demonstrate that he has met the requirements of the order or to adjust his operations to meet the past and future requirements of the order. This or any subsequent administrative proceedings will not, however, affect any criminal prosecution of the respondent for a violation, as explained in § 334.22.

§ 334.6 *Consent orders*. (a) Upon receipt of the notice referred to in § 334.5, if the respondent promptly requests an opportunity to present his case, which should be done by letter or telegram to the Compliance Officer, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., the Compliance Officer receives and considers such facts as may be presented. The respondent will ordinarily be permitted to present his facts in person, or through his attorney, to the Compliance Officer in Washington unless he wishes to submit a complete written statement by mail, either of which must be done promptly. He is entitled to be represented by counsel as explained in § 334.18. If the Compliance Officer is satisfied that there has been no violation or that the violation was not wilful or substantial, he may close the case. If the respondent admits the violation, a consent order may be issued upon the respondent's agreement and with the approval of the Compliance Officer and assigned counsel.

(b) Consent orders customarily have the same effect as suspension orders, which are explained in § 334.11 (c). In cases where a quota has been exceeded, a quota adjustment may be made by the issuance of a consent order reducing the respondent's future quota by the amount of the excess. If the Compliance Officer finds that the quota was not substantially exceeded, he may order it to be adjusted with the agreement of the respondent without the issuance of a formal consent order. Consent orders become effective upon issuance.

(c) Appearance in response to the notice described in § 334.5 is purely voluntary and no person is under any compulsion to appear, or to make any reply or showing, or to agree to any consent order or adjustment. No person should agree to any consent order or adjustment unless he thoroughly understands the order or adjustment, and wishes to agree to it of his own free will. The Compliance Officer will not approve the issuance of a consent order of the making of an informal adjustment unless he is satisfied that the respondent understands it and agrees to it.

§ 334.7 *Temporary suspension orders.* Whenever the Compliance Officer considers that time, the nature and effect of an apparent violation, and the public interest so requires, he may with approval of the assigned counsel direct the issuance of a temporary suspension order without notice to respondent where (a) there has been a violation which was clearly wilful; or (b) the public interest so requires; or (c) in other cases, but only after the respondent has been given an opportunity to present his case in the manner described in §§ 334.5 and 334.6. In all cases, however, the respondent is advised of the charges against him and a hearing before a Commissioner is held as soon as practicable after the issuance of a temporary suspension order and in any event before such order is made permanent unless the respondent waives the hearing or consents to the action taken.

§ 334.8 *Referral to Compliance Commissioner.* If the respondent does not request an opportunity to present his case, or presents it and fails to demonstrate that there was no violation and does not agree to the issuance of a consent order, the Compliance Officer may then refer the case to the Compliance Commissioner.

COMMISSIONERS, HEARINGS AND REPORTS

§ 334.9 *Compliance Commissioners.* The Compliance Commissioner for Office of Domestic Commerce is appointed by the Secretary of Commerce. He may select and designate Deputy Compliance Commissioners to assist him with his responsibilities. The Compliance Commissioner and Deputy Commissioners are responsible to the Secretary of Commerce, and not to the Director of Office of Domestic Commerce.

(a) The Compliance Commissioner and Deputy Commissioners hear and consider charges of violation of orders referred to him by the Compliance Officer. They have authority to administer oaths and affirmations and to require by subpoena issued by them in the name of the

Secretary of Commerce, the attendance of witnesses and the production of books, records or other documents or physical evidence determined by them to be relevant. Materials Control Regulation 2 (§ 329.2) delegates authority to the Compliance Commissioner and to Deputy Commissioners, and defines generally their duties and how proceedings are conducted.

(b) All hearings are customarily held in Washington, D. C., in a room assigned for that purpose by the Department of Commerce, with a Compliance Commissioner presiding. The holding of hearings at other places will ordinarily not be possible due primarily to budgetary and personnel limitations, and no respondent is entitled to insist upon a hearing outside of Washington. In exceptional cases, where a respondent within five days after receipt of notice of a hearing notifies the Compliance Officer by letter or telegram that he wishes to appear and offer evidence, that he or one or more of his material witnesses reside and are employed more than 100 miles from Washington and it is not practicable for them to be present there, and that he requests the hearing to be held at a more convenient place, the Compliance Officer may, if he finds it feasible to do so under the limitations referred to in this paragraph, request the Compliance Commissioner to designate a Deputy Commissioner to hear the case, or to hear it himself, at some place more convenient for the respondent. If such arrangements are made, the respondent will be notified of the time and place of the hearing; and if not, he will be notified of the time and place of the hearing in Washington.

The following description of the proceedings at hearings is applicable whether the hearing is held before the Compliance Commissioner or a Deputy Commissioner designated by him; and the presiding officer is referred to as the Commissioner, for brevity.

§ 334.10 *Hearings by Commissioners—*

(a) *Charging letters.* Prior to a hearing by a Commissioner, the Compliance Officer arranges for timely and adequate notice to the respondent of the time, place and nature of the hearing and the legal authority and jurisdiction under which it is to be held. This notice, which is referred to as a charging letter, is sent usually 15 days in advance of the date initially set for the hearing, and includes a summary statement of the charges and of the alleged facts or conduct on which the charges are based. Also, the Compliance Officer sees that notice of the hearing is given to the official who investigated the case.

(b) *Procedure; hearing powers; evidence; and reports.* (1) Hearings by Commissioners are designed to afford as close an approximation to judicial proceedings as is possible under the circumstances, and to bring forth all facts and circumstances relevant to the charges which have been made; and if violations are found, to indicate what administrative action would be advisable and how violations may be prevented in the future. Formal pleadings are not required. The Commissioners afford respondents and the Compliance Officer opportunity

for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment where time, the nature of the procedure and the public interest permit. Attendance at such a hearing by the respondent is purely voluntary, and he is not required to appear or offer evidence; if he does not choose to appear the proceeding will go forward without him.

(2) The respondent is entitled to be represented by counsel, as explained in § 334.18. If he wishes to offer evidence, his position should be supported by persons thoroughly familiar with his operations and the controls he has established to comply with orders, including such persons as are necessary to present his evidence or explanation of the charges. If his records or reports are to be offered in support of his defense or explanation, the person offering such records or reports should be familiar with their preparation and factual background. An original and two copies of any explanatory statement and an original and one copy of every other document to be offered for the Commissioner's consideration should be submitted at the hearing.

(3) The Compliance Officer is represented by attorneys and such investigators, analysts, or other witnesses as are necessary to present the case against the respondent.

(4) The Commissioner presides at the hearing. He will customarily state at the outset the purpose of the hearing, the procedure to be followed, and the types of findings and recommendations he may make. He will advise the respondent that the wilful violation of an order, or the wilful concealment of a material fact or making of a false or fraudulent statement or representation knowingly, are criminal offenses, pointing out the statutory penalties therefor; he will explain that the respondent is entitled to his constitutional and statutory privileges against self-incrimination, and is under no compulsion to make any statements or to offer any explanation. A copy of the charging letter will be shown to the respondent if he appears, and will be identified and marked as an exhibit. The Commissioner may administer oaths and affirmations; however, witnesses are not placed under oath or affirmation unless the Commissioner deems this advisable. He may also rule upon offers of proof and will receive relevant evidence. He may regulate the course of the hearings, dispose of procedural requests or similar matters, and by consent of the parties may hold conferences for the settlement or simplification of the issues although he does not adjust cases.

(5) At the beginning of each hearing, the Commissioner will attempt to determine what facts, if any, are in issue. The Compliance Officer has the burden of proof. Compliance Commissioners do not consider arguments against the policy which the order is designed to effectuate.

(6) If the respondent appears and admits the facts which constituted the violation charged, the Commissioner will request the respondent to present whatever explanation or defense he has to offer respecting the charges. This should be restricted to matters which

may excuse or explain the violation. The respondent should proceed with any explanation or excuses he may wish to offer, including testimony or exhibits.

(ii) On the other hand, if the respondent does not appear, or appears and does not admit all of the charges, the Compliance Officer will be called upon to produce proof of all charges not admitted, and may offer evidence in support of the charges. The respondent is then permitted an opportunity to cross-examine and offer contrary evidence or explanations.

(iii) Each party is afforded opportunity to present his case or defense by oral or documentary evidence, and to conduct such cross-examination as may be required for a full disclosure of the facts. Examination of witnesses on behalf of the Compliance Officer will customarily be conducted by his attorney. The Commissioner himself may also examine or cross-examine any witness.

(6) Any oral or documentary evidence relevant and material to the issues may be admitted; but irrelevant, immaterial and unduly repetitious evidence will be excluded, in order to keep the record as clear and concise as possible. The Commissioner will endeavor to ascertain such details of the respondent's operations as will be helpful to him in his consideration and action upon the case. He may also call upon expert witnesses during the course of the hearing.

(7) After the conclusion of evidence, the Compliance Officer and respondent will each be given an opportunity to present oral arguments. Prior to this, all argumentative statements or explanations will customarily be excluded. At the close of the hearing, or within five days thereafter if request has been made at the hearing, each of the parties may submit to the Commissioner for his consideration, proposed findings and conclusions with supporting reasons therefor, although this is not required. If such material is submitted, the record will show the Commissioner's rulings thereon.

(8) The Commissioner will proceed with all reasonable dispatch to conclude the case before him by filing a report with the Compliance Officer of ODC. The report will contain a statement of the facts found by him to be relevant to the violations charged, together with his conclusions: (i) As to whether or not the facts constituted a violation of any order, or a false or fraudulent statement or representation or concealment of a fact which is relevant and material to the administration or enforcement of an order, in violation of section 35 (a) of the U. S. Criminal Code, as charged; (ii) if so, whether or not the violation was wilful or the result of gross negligence. Such findings, and conclusions will be based only upon reliable, probative and substantial evidence, except when admitted by the respondent. The report will also include a recommendation for administrative action or other disposition of the case. Where considered appropriate by the Commissioner, the report will be accompanied by a recommendation for referral of the case to the Department of Justice for criminal or civil proceedings. The Commissioner's report directs the closing of the case if he finds

that the facts do not constitute either a wilful violation or misrepresentation, or a violation or misrepresentation caused by gross negligence of the respondent, or an unauthorized acquisition, delivery, possession, consumption, use or disposition of materials or facilities subject to ODC orders. If the Commissioner directs the closing of the case, the Compliance Officer has 10 days from the filing of the Commissioner's report within which to appeal. If the Compliance Officer does not appeal, he notifies the respondent that the case has been closed.

(9) The testimony and oral statements at the hearing are recorded and transcribed by an official court or other competent stenographer. The stenographer will attach to the transcript and sign a certificate that it and any accompanying exhibits are a complete transcript of the testimony taken and statements made at the hearing, except such matter as was stated by the Commissioner to be "off the record," and that they include all written exhibits. The transcript and other documents constituting the record are certified to the Compliance Officer of the Office of Domestic Commerce by the Compliance Commissioner with his report.

(10) At any time after a hearing and before the issuance of a suspension order, the Commissioner who held the hearing may reopen the case for a rehearing and the admission of additional evidence, upon application made to him in writing by the respondent or by the Compliance Officer. The application must contain a condensed statement of such evidence, show that it is material, and explain why it could not be or was not introduced at the hearing.

Rehearings will not customarily be granted by a Commissioner unless it is shown that the existence of the evidence was not known to the applicant at the time of the hearing or that it could not be obtained at that time by subpoena or otherwise. If the case is reopened, the Commissioner will give prompt advice of the time, place and nature of the hearing to the respondent by registered mail and to the Compliance Officer. After a suspension order has been issued, a case may be reopened only on an appeal, as explained in § 334.13.

(11) The report of a Commissioner as to the facts found by him upon a hearing is binding upon the respondent and upon the Compliance Officer for the purpose of the administrative compliance proceedings, except on appeals as explained in § 334.13.

(12) Hearings before Commissioners are not open to the public or the press. The transcript, exhibits and report and recommendations of the Commissioner and copies thereof will not be furnished or made available for inspection to members of the public not parties to the hearing or to their representatives. Copies will be made available to respondents, or witnesses, to the extent explained in § 334.16.

SUSPENSION ORDERS

§ 334.11 *Form and effect of suspension orders.* (a) When a Commissioner recommends the taking of administrative action, his recommendations are in-

corporated in a proposed suspension order and submitted to the Compliance Officer. Upon approval by the Compliance Officer and the assigned counsel, the order is issued in the name of the Office of Domestic Commerce.

(b) The Compliance Officer and the assigned counsel may also review the report and jointly direct the issuance of a suspension order differing from that recommended by a Commissioner but only in that the terms of the suspension or the restrictions imposed are less severe. They may not prescribe a more restrictive order than has been recommended, although an appeal may be taken by the Compliance Officer as explained in § 334.13.

(c) Suspension orders may withdraw or withhold priorities and allocations assistance from a respondent, restrict him in the acquisition, production, use or disposition of materials and facilities subject to ODC orders or items containing such materials, or otherwise restrict him so as to assure future compliance. Suspension orders are not ordinarily issued unless the Commissioner finds that the violations were wilful or caused by gross negligence, but where the suspension order is designed to effect a readjustment in cases where the respondent has exceeded his allowable quota or allocation of receipts, use, production or delivery of materials, or to reduce an excessive inventory, or to put a stop to violations, no finding of wilfulness or gross negligence is required.

(d) The Compliance Officer may at any time, with the approval of the assigned counsel, direct the issuance of specific exceptions or authorizations under suspension or consent orders.

§ 334.12 *Effective dates of suspension orders; stays.* (a) Suspension orders take effect at the end of five days after publication in the FEDERAL REGISTER. A copy of the suspension order is also served on the respondent by registered mail or personally. However, if an application for a stay of a suspension order is made in writing to the Compliance Officer, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., within such five day period, the suspension order is further stayed automatically until the expiration of five days after service of an order denying the stay. If an application for a stay is made after such five day period has expired and the suspension order has taken effect, the suspension order is not automatically stayed.

(b) Any application for a stay will be referred immediately to the Compliance Commissioner, who, in his discretion, and upon a showing of irreparable harm if the order is not stayed, may direct the issuance of an order staying the suspension order on such conditions, if any, as he may deem proper for assuring continuing compliance with orders by the respondent. Such applications will not be favorably considered by the Compliance Commissioner unless the respondent has also appealed from the suspension order, or has indicated his intention to do so and demonstrated the need for additional time in which to prepare and present his appeal, or has demonstrated

the need for additional time in which to conform his operations to the requirements of the suspension order.

(c) If the Compliance Commissioner decides that the suspension order should not be stayed, he will direct the issuance of an order denying the stay. The respondent will be notified of the denial.

(d) The Compliance Officer may himself direct the issuance of an order staying a temporary suspension order.

(e) All suspension orders and all orders staying suspension orders will be issued in the name of the Office of Domestic Commerce.

(f) Suspension orders, and orders staying suspension orders, are published in the *FEDERAL REGISTER*. Orders denying stays are merely served on the respondent by registered mail or as otherwise provided by law. Consent orders are also published in the *FEDERAL REGISTER*. All such published orders are customarily accompanied by a press release.

APPEALS

§ 334.13 *Appeals*. (a) After a Commissioner has concluded a hearing and made his report, appeals may be taken as explained below, and will be considered by the Chairman of the Appeals Board. The Appeals Board is headed by the Director of the Office of Domestic Commerce, or a deputy designated by him, who acts as Chairman. He reviews and decides, with the assistance and advice of two or more members of the Director's staff, all appeals from suspension or consent orders taken by respondents and all appeals from recommendations of Commissioners taken by the Compliance Officer. Appeals may be made as follows:

(1) *By respondents*. Any person against whom a suspension or consent order has been issued may appeal for relief from any or all of the provisions of the order. The appeal must be made in writing; and if from a suspension order, be submitted within thirty days from the date of issuance of the order. However, the Chairman of the Appeals Board may in his discretion permit the filing of an appeal at any time during the effective period of a suspension order.

(2) *By Compliance Officer*. The Compliance Officer may appeal from an order by a Commissioner directing the closing of a case or from his recommendation for administrative action. The appeal must be made in writing and be submitted within 10 days of the time of the filing of the report of the Commissioner. However, the Chairman of the Appeals Board may in his discretion extend the time for filing an appeal.

(b) *Proceedings on appeals*. (1) The party appealing, who is referred to as the appellant, will file a signed original and three copies of the appeal with the Chairman of the Appeals Board, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C. The Chairman will transmit one copy to the other party who is referred to as the appellee.

(2) The appeal must set forth the points relied upon by the appellant, together with supporting arguments. The appeal from a suspension order may include exceptions to the Commissioner's

report, or proposed different findings and conclusions, with supporting reasons. A respondent's appeal may also set forth the effect of the suspension or consent order upon the respondent's operations and any unforeseeable conditions which may have developed since its issuance and justify its mitigation. The Chairman will not consider arguments against the policy effectuated by the order or regulation charged to have been violated.

(3) Within 15 days after his receipt of a copy of an appeal, the appellee may file with the Chairman a signed original and three copies of an answer to the appeal. The Chairman will transmit one copy to the appellant. Within 5 days after receipt of a copy of an answer, the appellant may file with the Chairman a signed original and three copies of a reply. The Chairman may in his discretion require the filing of an answer or reply within a shorter period of time, or may extend the time for filing an answer or reply.

(4) The Chairman may in his discretion, after the filing of an appeal (and answer and reply, if any) permit the appellant to appear before him and make an oral presentation of the appeal. The appellee will be notified of any such hearing and he or his representatives may attend and be heard.

(5) After a review of the record of the case in the light of the appeal, and any answer and reply, the Chairman of the Appeals Board will either deny or grant the appeal, in whole or in part, and his decision thereon is final. On appeal by a respondent from a suspension order, the Chairman may review the facts and make new findings of fact, although he will give due regard to the opportunity of the Commissioner to judge the credibility of witnesses and not set aside any findings of fact unless clearly erroneous. On any appeal by either party, he may direct the closing of the case, or a modification of the suspension or consent order which was recommended for issuance by the Commissioner, including, after notice to the Compliance Officer and the assigned counsel, an increase in the restrictions or the period they remain in effect. The decision of the Chairman will be followed by the issuance of such order, or the modification or revocation of the existing order, as may be required to carry out his decision. A copy of his opinion will be furnished the respondent through the Compliance Officer when a suspension or consent order is continued in effect, or when it is revoked if so directed by the Chairman.

(c) The Chairman may also at any time, after notice to the assigned counsel, revoke any suspension order, or modify it by diminishing the period of suspension or the restrictions imposed, even though no appeal from the order has been taken by the respondent.

(d) Upon an appeal, the Chairman may direct the reopening of the case before a Commissioner for the purpose of admitting additional evidence or rehearing by the Commissioner, and the submission of a further report on the case. After such rehearing, the Commissioner may amend any previous findings of fact,

conclusions or recommendations previously made in the case by a Commissioner, or make new ones, and may recommend that the suspension or consent order be continued in force, modified, or revoked, and will incorporate these in his report. This report will be filed with the Chairman for consideration in his determination on the appeal. Rehearings will customarily be granted only under the conditions described in § 334.10 (b) (10).

SPECIAL HEARINGS AND INVESTIGATORY PROCEEDINGS

§ 334.14 *Special proceedings*. Proceedings before a Commissioner may also be held in connection with investigations of alleged violations, even though no formal charge has been made. Such hearings will not be held, however, for the purpose of permitting any party to conduct "fishing expeditions."

(a) *Special hearings at request of respondent*. A special hearing may be held at the request of any person against whom any of the following actions has been taken:

(1) When a letter or telegram has been sent to him by the Compliance Officer directing him to discontinue certain action alleged to be contrary to an order, and he waives the issuance of a charging letter and demands an immediate hearing before a Commissioner; or

(2) When a temporary suspension order has been issued against him by the ODC and he waives the issuance of a charging letter and demands an immediate hearing before a Commissioner; or

(3) When a referral has been made on behalf of ODC to a United States Attorney for criminal prosecution, and the prospective defendant requests a hearing before a Commissioner and is willing to waive immunity; but only if the holding of the hearing is approved by the assigned counsel of ODC and the United States Attorney in charge of the case.

Application for a special hearing should be made in writing to the Compliance Commissioner, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., and should explain briefly why such a hearing should be held. He will advise the applicant whether or not such a hearing will be granted; and if the hearing is granted, the respondent and the ODC will be notified of the time, place and nature of the hearing. The charges of violation to be heard, or other issues to be determined, will be clearly and concisely stated in writing at the hearing, either by formal stipulation or in the form of a charging letter so that the respondent and the ODC will be clearly informed of the nature and scope of the hearing and so that these matters will appear in the record.

(b) *Investigatory proceedings*. In order to secure information which investigators have been unable to obtain, an investigatory proceeding may be held at the request of the Compliance Officer for the purpose of obtaining any information, verifying any report required, or making any investigation which may be found necessary or appropriate to the enforcement or administration of any order.

(c) *Procedure.* The procedure in such cases will in general follow that explained in § 334.10, to the extent applicable, but in an investigatory proceeding held at the request of the Compliance Officer, no findings of fact, conclusions or recommendations will be made by the Commissioner.

MISCELLANEOUS MATTERS

§ 334.15 *Subpoenas.* (a) In any hearing before a Commissioner at which the respondent has voluntarily appeared and upon his request, and at any investigatory proceeding upon the request of the Compliance Officer or the respondent, the Commissioner may require by subpoena issued by him in the name of the Secretary of Commerce the attendance of witnesses and the production of books, records or other documentary or physical evidence determined by the Commissioner to be of general relevance and reasonable scope and otherwise properly obtainable by subpoena.

Such subpoenas will be returnable before a Commissioner. If prior to the return date specified in the subpoena, the person against whom the subpoena is issued furnishes the Commissioner or the party at whose request it is issued, a true and certified copy of the books, records or other documentary evidence called for by the subpoena, or enters into a stipulation with him as to the information contained therein, then the production of such books, records and other evidence will not be required at any place other than the place where the person against whom the subpoena is issued resides or transacts business.

(b) No person (individual, corporate or otherwise) is excused from attending and testifying or from producing books, records or other documentary evidence or certified copies thereof or physical evidence in obedience to any such subpoena, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, wilful violations of orders are criminal offenses, punishable by imprisonment or fine under the Second War Powers Act, 1942, as amended, or the Rubber Act of 1948 (Pub. Law 469, 80th Cong.) and the wilful concealment of any material fact or making of, or causing to be made, any false or fraudulent statement knowingly in any matter within the jurisdiction of any department or agency of the United States are criminal offenses punishable by imprisonment or fine under section 35 (a) of the United States Criminal Code, and individual witnesses at any of the hearings and other proceedings described in this document are entitled to their constitutional and statutory privileges against self-incrimination. No individual is subject to prosecution and punishment or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled by any such subpoena to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that any such individual so testifying is not exempt from prosecution and punish-

ment for perjury committed in so testifying.

(c) Witnesses are entitled to the same fees and mileage that are paid witnesses in the courts of the United States, such fees to be paid by the party at whose instance the testimony is taken. Respondent should tender to his witnesses the fees for one day's attendance and the mileage allowed by law when subpoenas are served on them.

§ 334.16 *Inspection and copies of record.*—(a) *In investigatory proceedings.* In investigatory proceedings held at the request of the Compliance Officer as described in § 334.14 (b) a witness will customarily be permitted an inspection of the official transcript of his testimony.

(b) *In hearings.* In all hearings, Commissioners will furnish or have furnished to any person compelled to submit data or evidence, a copy of such data or a copy of the transcript of such evidence upon payment of lawfully prescribed costs; or if such person has a copy of such data or a transcript of such evidence, the Commissioner will permit him to retain the same. The respondent may obtain a copy of the transcript at his own expense.

(c) *Commissioners' reports.* A copy of the report made by the Commissioner, referred to in § 334.10, will be furnished to the respondent by the Compliance Officer upon the issuance of a suspension order, and may be sent him at the direction of the Commissioner if he closes the case; and after an appeal decided adversely to the respondent, a copy of the opinion will be sent respondent, as explained in § 334.13 (b).

(d) *Transcript.* For the purpose of any appeal from, review or proceeding for the enforcement of a suspension order, the transcript and exhibits and Commissioner's report, and if an appeal is taken, the opinion of the Chairman of the Appeals Board, together with all papers and requests filed by either party at any stage in the proceedings, shall be parts of the record; and a suspension order will not be based upon extraneous matter.

§ 334.17 *Closing compliance cases.* Compliance cases are closed as follows:

(a) Prior to a hearing before a Commissioner a case may be closed or a warning letter may be issued to the respondent, or a consent order may be issued.

(b) After a hearing has been held in a case before a Commissioner, the case may be closed only by the direction or with the consent of the Commissioner unless an appeal is taken to the Chairman of the Appeals Board.

(c) After a case has been considered on appeal by the Chairman of the Appeals Board, the case may be closed or the terms of the suspension order modified only at his direction.

§ 334.18 *Appearances.* (a) A respondent may not be represented before the Compliance Officer any Compliance Commissioner, or the Chairman of the Appeals Board, by any person who:

(1) Is or has been at any time associated with the specific matter involved as an officer or employee of the Department of Commerce or the Civilian Production Administration; or

(2) Has been, within one year, an officer or employee of the Department of Commerce or Civilian Production Administration.

(b) Subject to the foregoing, any person compelled to appear in person, or appearing voluntarily, will be afforded the right to be accompanied, represented and advised by counsel, or by any other qualified representative, although this is not required.

§ 334.19 *Separation of functions.* In the performance of their functions described in this document, the Compliance Commissioner and Deputy Commissioners are responsible to the Secretary of Commerce, and not to the Director of the Office of Domestic Commerce, and are not subject to the supervision or direction of the latter, or of any officer, employee or agent engaged in the performance of investigative or prosecuting functions for the Office of Domestic Commerce. The Compliance Commissioner and the Deputy Compliance Commissioners do not consult either the respondent or the Compliance Officer on any fact in issue at their hearings, unless upon notice and opportunity for both parties to attend and participate. Neither the Compliance Officer nor his subordinates will participate or advise in any decision as to the facts or conclusions as to any fact in issue, either upon issues as to whether or not there was a violation, or whether or not a violation was wilful or the result of gross negligence, made by the Compliance Commissioner or Deputy Commissioners, or by the Chairman of the Appeals Board, upon an appeal.

§ 334.20 *Disqualification of Commissioner.* Any Commissioner may at any time withdraw if he deems himself disqualified; and, upon the filing in good faith of a timely and sufficient affidavit of personal bias or disqualification of a Commissioner, the Compliance Commissioner will determine the matter as a part of the record and decision in the case.

§ 334.21 *Policies, standards and procedures for compliance hearings and appeals.* The Solicitor of the Department of Commerce has approved general policies, standards and procedures to be followed by the Compliance Commissioner and by Deputy Commissioners, as well as rules and procedures for the taking and disposition of appeals, and for the application for stays. An explanation of such general policies, standards, procedures and rules is included above in conjunction with the explanation of other compliance matters covered by the regulations in this part.

§ 334.22 *Criminal or civil proceedings not affected by administrative proceedings.* The issuance, non-issuance, modification, stay or revocation of a suspension or consent order, or recommendations of such actions by the Compliance Commissioner, or a Deputy Commissioner, does not preclude or affect the referral of the case to the Department of Justice for the institution of criminal or civil proceedings.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws

RULES AND REGULATIONS

188, and 427, 80th Congress) Pub. Law 469, 80th Congress; Executive Order 9841, April 23, 1947, 12 F. R. 2645; Executive Order 9942, April 1, 1948, 13 F. R. 1823; Material Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

OFFICE OF DOMESTIC
COMMERCE,
By RAYMOND S. HOOVER,
Issuance Officer

[F. R. Doc. 48-4266; Filed, May 7, 1948;
4:56 p. m.]

[Allocations Reg. 1,¹ as Amended May 7, 1948]

**PART 336—REGULATIONS APPLICABLE TO
THE OPERATION OF THE ALLOCATIONS
AND EXPORT PRIORITIES SYSTEM**

BASIC RULES

Allocations Regulation 1 (formerly in Part 945) is transferred to Part 336 and is amended to read as follows:

The fulfillment of requirements for the defense of the United States has created shortages in the supplies of certain materials and facilities for defense, for private account, and for export; and the following regulation is deemed necessary and appropriate in the public interest and to promote the national defense, and to effectuate the policies set out in the legislation under which this regulation is administered.

PURPOSE, SCOPE, DEFINITIONS

Sec.
336.1- Purpose and scope of this regulation; definitions.

USE OF CERTIFICATIONS

336.2 Certifications on purchase orders and other documents.

EFFECT OF ODC ORDER ACTIONS

336.3 Effect of other regulations and orders.
336.4 Effect of revocation of orders and regulations.

GENERAL RESTRICTIONS ON MATERIALS

336.5 Use or disposition of material acquired with allocations assistance.
336.6 Intra-company deliveries.

SCOPE OF ODC ORDER ACTIONS

336.7 Scope of regulations and orders.

"EXCULPATORY" PROVISION

336.8 Defense against claims for damages.

GENERAL INVENTORY RESTRICTIONS

336.9 Inventory restrictions.

GENERAL DELIVERY RESTRICTIONS

336.10 Delivery for unlawful purposes prohibited.

RECORDS AND REPORTS

336.11 Records.
336.12 Audit and inspection.
336.13 Reports.

VIOLATIONS

336.14 Violations.

APPEALS

336.15 Appeals for relief in exceptional cases.

¹ Formerly: Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 945.

NOTIFYING CUSTOMERS OF RESTRICTIONS
Sec.

336.16 Notification of customers.

TRANSFERS OF QUOTAS, ETC.

336.17 Transfers of quotas; transfers of a business as a going concern.

**GENERAL RESTRICTIONS ON USE OF
AUTHORIZATIONS**

336.18 Quantities and kinds of materials or services obtainable with allocations assistance.

FORM OF OFFICIAL ACTIONS

336.19 ODC official signature.

336.20 Official interpretations.

Allocations Regulation 1.

PURPOSE, SCOPE, AND DEFINITIONS

§ 336.1 *Purpose and scope of this regulation; definitions.* This regulation states the basic rules of the Office of Domestic Commerce, Department of Commerce, which apply to business transactions affected by its regulations or orders, unless the transactions are covered by more specific ODC regulations or orders which are inconsistent with this regulation.

The following definitions apply for purposes of this regulation and any other regulation or order of the ODC unless otherwise indicated.

(a) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(b) "Material" means any commodity, equipment, accessory, part, assembly or product of any kind.

(c) "Allocations assistance" means any authorization by the ODC under a regulation or other document issued by it, to obtain materials or facilities. The term includes but is not limited to authorizations for the use of export preference certificates on orders entitled to priority for export purposes, as well as certificates required to obtain materials but not entitled to priority.

(d) "ODC" means the Office of Domestic Commerce, Department of Commerce, and, where appropriate, its predecessors, the Office of Materials Distribution (Department of Commerce) the Civilian Production Administration (Office of Temporary Controls) the War Production Board, and the Office of Production Management.

USE OF CERTIFICATIONS

§ 336.2 *Certifications on purchase orders and other documents—(a) How to use a certificate on a purchase order* When a person uses a certificate required or permitted under any ODC order, regulation or direction, he must place it on the purchase or delivery order which is being certified, or on a separate piece of paper either attached to the purchase order or clearly identifying it. A signature on the purchase order shall apply to the certificate on an attached or unattached piece of paper only where the words above the signature clearly make it include the certificate.

The certificate must be verified by the signature of the person placing the order, or of a responsible individual who is duly authorized to sign for that pur-

pose. The signature must be either by hand or in the form of a rubber stamp or other facsimile reproduction of a handwritten signature; however, if a facsimile signature is used, the individual who uses it must be duly authorized in writing to use it by the person whose signature it is, and a written record of the authorization must be kept.

When a purchase order is placed by telegram and the certificate is used, the certificate must be set out in full in the telegram. It will be sufficient if the file copy of the outgoing telegram is signed in the manner required for certification by this regulation.

(b) *Signature on other documents.* The above rules for signing certificates on purchase orders also apply to the signature on reports, applications for authorizations to use a certificate, and other documents that are required to be filed under orders and regulations of the ODC.

(c) *Responsibility for truth of certification.* The person who places the certified order or makes the application, report or other document, the individual whose signature is used, and the individual who approves the use of the signature shall each be considered to be making a representation to the ODC that the statements contained in the certificate or other document are true to the best of his knowledge and belief.

The person receiving the certification and other information required to be included with it shall be entitled to rely on it as a representation of the buyer unless he knows or has reason to know that it is false.

EFFECT OF ODC ORDER ACTIONS

§ 336.3 *Effect of other regulations and orders.* A limited number of materials are subject to control under orders of the ODC, usually referred to as conservation or limitation orders, directions and supplements as published in the FEDERAL REGISTER, and in some instances allocations are made under them. Also, in exceptional cases, the ODC may issue specific directions by letter or telegram to named persons for the delivery of those or other materials or the use of facilities. Such published rules, specific allocations made under them, and specific directions for the delivery of materials or the use of facilities must be complied with regardless of export preference certificates or ratings, unless otherwise specified.

§ 336.4 *Effect of revocation of orders and regulations.* (a) When an order or regulation of the ODC is revoked, all published amendments, schedules, appendices, and directions to that order or regulation are revoked, unless otherwise stated in the instrument revoking the order or regulation.

(b) Whenever an order or regulation of the ODC is revoked, all directions, authorizations, allocations, production or delivery schedules and other instruments addressed to named persons pursuant to that order or regulation are revoked, unless otherwise stated in the instrument of revocation.

(c) "Suspension orders" and "consent orders" issued on the basis of a violation of orders and regulations of the ODC remain in effect after revocation of

such orders and regulations, unless otherwise provided. If you are subject to a suspension order or consent order which you think should be lifted or modified because of the lifting of the restriction on which the violation was based, you may address a request for relief to the Compliance Officer, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C.

GENERAL RESTRICTIONS ON MATERIALS

§ 336.5 *Use or disposition of material acquired with allocations assistance.* (a) Any person who gets material with allocations assistance must, if possible, use or dispose of it (or of the product into which it has been incorporated) for the purpose for which the assistance was given. This restriction applies to material obtained by means of a certificate, allocation, specific direction, or any other action of the ODC. Physical segregation is not required as long as the restrictions applicable to any specific lot of material or product are observed with respect to an equivalent amount of the same material or product. The above restriction does not apply in the following two cases, but the rules on further use or disposition in paragraph (b) below must be observed: (1) When a material, or a product into which it has been incorporated, can no longer be used for the purpose for which the assistance was given (for example, when the assistance was given to fill a particular contract or purchase order and the material or product does not meet the customer's specifications or the contract or order is cancelled), (2) When the material was obtained by means of any order, regulation, allocation, specific direction or other action of the ODC which has been revoked or cancelled, unless otherwise stated in the instrument of revocation or in any other action of the ODC.

(b) The holder of a material or product subject to paragraph (a) (1) or (2) above may sell it as long as he complies with all requirements of other applicable sections of this regulation and of other orders and regulations of the ODC, or he may use it himself in any manner or for any purpose as long as he complies with such requirements. If the intended use is prohibited or restricted, he must appeal or otherwise apply for permission under the applicable order or regulation.

§ 336.6 *Intra-company deliveries.* When any rule, regulation or order of the ODC prohibits or restricts deliveries of any material by any person, such prohibition or restriction shall, in the absence of a contrary direction, apply not only to deliveries to other persons, including affiliates and subsidiaries, but also to deliveries from one branch, division or section of a single enterprise to another branch, division or section of the same or any other enterprise under common ownership or control.

SCOPE OF ODC ORDER ACTIONS

§ 336.7 *Scope of regulations and orders.* All regulations and orders of the ODC (including directions, directives and other instructions) apply to all subsequent transactions even though they

are covered by previous contracts. Regulations and orders apply to transactions in the territories or insular possessions of the United States unless the regulation or order specifically states that it is limited to the continental United States or to the 48 states and the District of Columbia. However, restrictions of ODC orders or regulations on the use of material or on the amount of inventory shall not apply when the material is used or the inventory is held directly by the Army or Navy outside the 48 states and the District of Columbia, unless otherwise specifically provided. Exports and deliveries of material to be exported may be made regardless of any ODC order or regulation restricting inventories of material or uses thereof in manufacture or otherwise, or requiring certificates with respect to such inventories or uses, insofar as such inventories are maintained or such uses occur in the country to which such material is to be exported, but shall be subject to such restrictions with respect to inventories maintained or uses occurring within the United States prior to export.

"EXCULPATORY" PROVISION

§ 336.8 *Defense against claims for damages.* No persons shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with any rule, regulation or order of the ODC, notwithstanding that any such rule, regulation or order shall thereafter be declared by judicial or other competent authority to be invalid.

GENERAL INVENTORY RESTRICTIONS

§ 336.9 *Inventory restrictions.* No person may deliver or receive into inventory more of any material than is permitted under applicable Office of Domestic Commerce orders.

GENERAL DELIVERY RESTRICTIONS

§ 336.10 *Delivery for unlawful purposes prohibited.* No person shall deliver any material which he knows or has reason to believe will be accepted, redelivered, held or used in violation of any order or regulation of the Office of Domestic Commerce.

RECORDS AND REPORTS

§ 336.11 *Records.* Each person participating in any transaction to which any rule, regulation or order of the ODC applies shall keep and preserve for at least two years accurate and complete records of the details of each such transaction and of his inventories of the material involved. Such records shall include the dates of all contracts or purchase orders accepted, the delivery dates specified in such contracts or purchase orders, and in any certificates accompanying them, the dates of actual deliveries thereunder, description of the material covered by such contracts or purchase orders, description of deliveries by classes, types, quantities, weights and values, the parties involved in each transaction, the certificates, if any, assigned to deliveries under such contracts or purchase orders, details of certified orders (or other orders required by the ODC to be filled) either accepted or offered and rejected,

and other pertinent information. Records kept by any person pursuant to this section shall be kept either separately from the other records of such person and chronologically according to daily deliveries by such person, or in such form that such a separate chronological record can be promptly compiled therefrom; except that this section does not require the records kept under it to be kept separately from those which may have been required under regulations or other rules of the Housing Expediter. Whenever a regulation or order requires a person to restrict his operations in proportion to his operations in a base period (for example, an order may forbid him to use more of a certain kind of material than he used in the fourth quarter of 1942) he must determine, as accurately as is reasonably possible, his base period operations and preserve a written record of any figures and work sheets showing how he made his calculations for inspection by ODC officials as long as the regulation or order remains in force and for two years after that. Whenever a person is restricted as to the quantity of material he may use in production or the amount he may produce, under quota restrictions, limitation orders, authorized production schedules, special directions or similar provisions he must keep reasonably adequate records of the material consumed and of production to show whether he is complying with the restrictions. This record-keeping requirement has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

§ 336.12 *Audit and inspection.* All records required to be kept by this regulation or by any rule, regulation or order of the Office of Domestic Commerce shall, upon request, be submitted to audit and inspection by its duly authorized representatives.

§ 336.13 *Reports.* (a) Every person shall execute and file with the ODC such reports and questionnaires as it shall from time to time require, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(b) *Reports under ODC orders and regulations.* (1) If a published regulation or order of the ODC requires the filing of a report by a specified class of persons you must file the report in accordance with any applicable instructions if you belong to that class. The instructions may be in the regulation or order itself or on a form or separate instruction sheet.

(2) When a published regulation or order requiring you to file any reports is revoked, you do not need to file any more reports due after that date unless they are required by another published regulation or order or unless you are notified to continue to file them in accordance with the rules stated in paragraph (c) below. This does not, however, excuse you from filing any reports due before the regulation or order was revoked.

(c) *Reports not specified in an order or regulation.* The ODC may need information which is not required under a specific regulation or order. In such cases you must file reports when you re-

ceive or have received a written notice to do so in one of the following ways:

(1) A letter or other written instrument specifically addressed to you issued over the signature of the Director of the Office of Domestic Commerce or in the name of the Office of Domestic Commerce, countersigned or attested by the Issuance Officer.

(2) A report form or instruction sheet with an official form number in the "ODC" series bearing your name or enclosed in an envelope specifically addressed to you.

Approval of the Bureau of the Budget will be indicated on the notice or on a report form or instruction sheet referred to in the notice.

VIOLATIONS

§ 336.14 *Violations.* Any person who violates any provision of this regulation or any other rule, regulation or order of the ODC, or who, by any statement or omission, wilfully falsifies any records which he is required to keep, or who otherwise wilfully furnishes false or misleading information to the ODC, and any person who obtains a delivery, an allocation of material or facilities, or an authorization to use a certificate by means of a material and wilful, false or misleading statement, may be prohibited by the Office of Domestic Commerce from making or obtaining further deliveries of material or using facilities under allocation control and may be deprived of further allocations assistance. The Office of Domestic Commerce may also take any other action deemed appropriate, including the making of a recommendation for prosecution under section 35 (A) of the Criminal Code (18 U. S. C. sec. 80), or under other applicable statutes.

APPEALS

§ 336.15 *Appeals for relief in exceptional cases.* Any person who considers that compliance by himself or another with a rule or regulation or order of the ODC would work an exceptional and unreasonable hardship upon him which is not suffered generally by others in the same industry or activity or would result in improper discrimination against him may appeal for relief. Unless otherwise specified in the rule, regulation or order involved, appeals should be made by letter, signed by appellant (or a duly authorized official of appellant's company) (Allocations Regulation 3 explains what such a person may do if he is dissatisfied with the decision on his initial appeal for relief.)

NOTIFYING CUSTOMERS OF RESTRICTIONS

§ 336.16 *Notification of customers.* Any person who is prohibited from or restricted in making deliveries of any material by the provisions of any rule, regulation or order of the ODC shall, as soon as practicable, notify each of his regular customers of the requirements of such rule, regulation or order, but the failure to give notice shall not excuse any customer from the obligation of complying with any requirements applicable to him.

TRANSFERS OF QUOTAS, ETC.

§ 336.17 *Transfers of quotas; transfers of a business as a going concern.*

(a) This section explains when quotas and other rights under the allocations system may be transferred from one person to another and states the rules governing transfer of a business as a going concern.

(b) *Specific provisions in orders or regulations govern.* This regulation does not apply in any case where an applicable order or regulation provides a different rule.

(c) *What is meant by "quota."* As used in this regulation "quota" means a quantitative limit which is placed on the production or delivery of items, or on the acquisition or use of material, by an order or regulation of the ODC. Most quotas are in the form of a specified percentage of production or use during a previous base period or in the form of a specified number of items which may be produced.

(d) *Quota applies to actual manufacturer.* Where a manufacturer does not sell his product in his own name, but makes it for another person under whose name it is sold, and an order of the ODC imposes a quota on manufacturers of the product, that quota applies to the person who actually makes the product rather than to the one under whose name it is sold.

(e) *Distribution of quota where quota holder has several establishments.* Where the holder of a quota has several establishments, he may distribute his quota among them, and change the distribution in any way he wishes unless the quota was acquired on a transfer of a going business as explained in paragraph (h) (1) below.

(f) *Transfer of quotas forbidden in most cases.* No quotas may be transferred from one person to another under any circumstances, except in connection with the transfer of a business as a going concern as explained in paragraph (h) (1) below or with the express permission of the ODC. Permission to transfer quotas may be expressly given in an order or regulation or on appeal as explained in paragraph (i) below.

(g) *Transfers of specific authorizations forbidden.* No person may transfer to another any right granted by specific authorization except where this is part of a transfer of a going business as explained in paragraph (h) (1) below.

(h) *Transfer of business as a going concern.* (1) Whenever an entire business is transferred as a going concern to a new owner who continues to operate substantially the same business in the same establishment, using substantially the same trade-mark or trade-name, if any, all rights and obligations under ODC orders and regulations which applied to the business before the transfer continue applicable after the transfer, and the old owner no longer has them. The business under the new ownership has the same quotas, specific authorizations and other rights and duties created by ODC orders and regulations as it had under the old ownership. However, the new owner may not continue to exercise any such rights if he discontinues operation of the business he acquired or operates it as a substantially different business or in another establishment, or if he uses a substantially different trade-

mark or trade-name. He may not, at any time, use any quota of the transferred business for any other part of his business.

(2) If, on dissolution of a firm, the entire business is not transferred as a going concern to a single successor, but is divided up in any way, application must be made to the ODC for a determination of quotas and other rights and duties under ODC orders and regulations.

(3) An order or regulation of the ODC, which places any restriction on the transfer of any particular material or product does not apply to a transfer which is part of a transfer of the ownership of an entire business as a going concern, and ODC approval need not be obtained for any such transfer.

(i) *Permission in exceptional cases on appeal.* In any case where the above rules work an exceptional hardship, specific permission may be given on appeal for the transfer of a quota, or a specific authorization or for other exceptions from the rules. An appeal for the transfer of a quota should be filed as an appeal from the order imposing the quota by the person who wishes it transferred to him. If the person from whom it is to be transferred agrees to the transfer, he should join in the appeal. It is not expected that permission will be granted for the purchase or sale of a quota for any consideration in any case where the principal purpose of the transaction is merely to transfer the quota.

GENERAL RESTRICTIONS ON USE OF AUTHORIZATIONS

§ 336.18 *Quantities and kinds of materials or services obtainable with allocations assistance.* When allocations assistance is granted by the ODC, the person authorized may use it to get only that quantity and kind of material or that particular service specified in the authorization or other document issued by ODC. If the quantities of material are not stated in the ODC authorization or other document, it may be used only to get the minimum amount needed. No person may place such authorized orders for more material than he is authorized, even if he intends to cancel some of the orders or to reduce the quantity of material ordered to the authorized amount before it is all delivered. The only cases in which a certified order may be used to get services, as distinct from the production or delivery of material, are when ODC authorizes a named person to use the certificate to get specified services, or when a person authorized to use a certificate on a certified order to get processed material furnishes the unprocessed material to a processor and uses the certificate to get it processed.

FORM OF OFFICIAL ACTIONS

§ 336.19 *ODC official signature.* All actions taken in performance of the functions or in exercise of the powers, authorities, and discretion now or hereafter vested in the Director of the Office of Domestic Commerce, under Materials Control Regulation 1, may be taken by the Director of the Office of Domestic Commerce, or in the name of the Office of Domestic Commerce countersigned or

attested by the Issuance Officer of the Office of Domestic Commerce.

§ 336.20 *Official interpretation*—(a) *Classes of official interpretations*. There are two classes of official interpretations of ODC rules, regulations, orders, and other actions—"published interpretations" and "unpublished interpretations."

By "published interpretation" is meant an official interpretation which has been published in the FEDERAL REGISTER. In the usual case, interpretations will be so published only when the interpretation is of wide general interest. By "unpublished interpretation" is meant any other interpretation issued pursuant to this regulation. Unpublished interpretations are issued to one or more individuals and interpret a regulation or order with respect to individual transactions or operations not believed to be of general interest.

(b) *Authority to issue interpretations*.

(1) Published interpretations are issued only over the official signature of the Office of Domestic Commerce, as provided for in § 336.20 above. (2) Unpublished interpretations are issued only (i) in the same form as published interpretations, or (ii) over the name of the counsel assigned to the Office of Domestic Commerce or the Office of the Solicitor, Department of Commerce.

(c) *Effect of interpretations*. (1) A published interpretation shall have the same force and effect as the regulation or order interpreted, regardless of whether a particular individual has actual knowledge of the published interpretation. (2) An unpublished interpretation shall be binding only upon persons having actual knowledge thereof. (3) In the event of conflict between a published and an unpublished interpretation the published interpretation shall prevail. (4) No interpretation shall be deemed to be official or binding upon the Office of Domestic Commerce unless issued in accordance with this regulation.

Issued this 7th day of May 1948.

H. B. McCoy,
Director

Office of Domestic Commerce.

The following interpretation of the record-keeping requirements of Allocations Regulation 1 was issued by the Office of Materials Distribution on April 15, 1948 (13 F. R. 2018). Since it continues to be appropriate, it is hereby adopted by ODC.

INTERPRETATION 1 TO ALLOCATIONS REGULATION 1—RECORD-KEEPING REQUIREMENTS (OMD, CPA (OTC), WPB, OPM)

(a) *Purpose*. The purpose of this interpretation is to clarify the requirements for keeping records on transactions affected by rules, regulations or orders of the Office of Materials Distribution, Department of Commerce, and its predecessor agencies—the Civilian Production Administration (Office of Temporary Controls) the War Production Board, and the Office of Production Management. This interpretation does not apply to records which may be necessary or desirable in connection with the rules,

regulations or orders of any other agencies.

(b) *Requirements*. So far as regulations of the agencies specified in paragraph (a) above are concerned, the requirements are as follows:

(1) The only provision now in effect is set out in Allocations Regulation 1 of the Office of Materials Distribution. That regulation contains a section which reads in part as follows:

§ 945.11 *Records*. Each person participating in any transaction to which any rule, regulation or order of the OMD applies shall keep and preserve for at least two years accurate and complete records of the details of each such transaction and of his inventories of the materials involved. . . .

(2) Under AR-1, records need be kept only for transactions which (i) are less than two years old and in addition (ii) are those to which rules, regulations or orders of the Office of Materials Distribution apply. This includes rules, regulations and orders issued by the Office of Materials Distribution and those transferred to it from the Civilian Production Administration (Office of Temporary Controls).¹

(3) Under AR-1, records need not be kept if either (i) they relate only to transactions which are more than two years old or (ii) they were established in connection with Office of Production Management, War Production Board or Civilian Production Administration (Office of Temporary Controls) rules, regulations or orders which were not transferred to the Office of Materials Distribution.

(c) *Background*. General record-keeping requirements were originally established in Priorities Regulation 1, issued by the Office of Production Management in 1941 and containing a provision similar to the Allocations Regulation 1 provision quoted in paragraph (b) above. Priorities Regulation 1 was kept in effect by the War Production Board and then by the Civilian Production Administration (Office of Temporary Controls) until April 1, 1947. As of that date, the following steps were taken by the Civilian Production Administration (Office of Temporary Controls) in connection with a transfer of its Veterans' Emergency Housing Program functions to the Office of Housing Expediter:

(1) Transfer of Priorities Regulation 1 (and certain other CPA orders and regulations relating to the housing functions) to the Office of Housing Expediter (12 F. R. 2127)

(2) Issuance of a new regulation (Allocations Regulation 1) similar to Priorities Regulation 1 but applying only to matters remaining under the jurisdiction of the Civilian Production Administration (Office of Temporary Controls).

On May 4, 1947, the Office of Materials Distribution became the successor to the then remaining functions of the Civilian Production Administration (Office of

¹ Up to the date of issuance of this interpretation, OMD rules, regulations and orders—including those transferred from the CPA (OTC)—included the following: AR-1, AR-2 (and directions), AR-3, M-43, M-81 (and Direction 10), M-24 (now revoked) M-112, M-131, M-393 (now revoked), R-1.

Temporary Controls) and adopted the outstanding rules, regulations and orders of that agency, including Allocations Regulation 1.

On April 1, 1948, the Office of Housing Expediter revoked Priorities Regulation 1. The notice of revocation (13 F. R. 1901) contained the following statement in a footnote:

In connection with the records keeping requirements of Priorities Regulation 1, this revocation applies only to the Office of Temporary Controls (Civilian Production Administration) regulations and orders transferred to and adopted by the Housing Expediter in Housing Expediter Priorities Order 5. It does not apply to the keeping of records in connection with any other Office of Temporary Controls (Civilian Production Administration) regulations and orders. (See Allocations Regulation 1 issued by the Office of Temporary Controls (Civilian Production Administration) and now administered by the Office of Materials Distribution, Department of Commerce.)

[F. R. Doc. 49-4231; Filed, May 7, 1948; 4:54 p. m.]

[Allocations Regulation 2, as Amended May 7, 1949]

PART 336—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

RESTRICTED EXPORT PREFERENCE ASSISTANCE

Section 336.40 *Allocations Regulation 2* (formerly § 945.40), is amended to read as follows:

The fulfillment of requirements for the defense of the United States has created shortages in the supplies of certain materials and facilities for defense, for private account, and for export; and the following regulation is deemed necessary and appropriate in the public interest and to promote the national defense, and to effectuate the policies set forth in the legislation under which this regulation is administered.

§ 336.40 *Allocations Regulation 2*.

GENERAL

(a) *Purpose*. This regulation and its directions set forth the very limited scope of export preference assistance which will be granted by the Office of Domestic Commerce, Department of Commerce under existing legislation. Such assistance, when granted, will usually be in the form of authorizations to place orders with certificates entitling the orders to preference.

The issuance of authorizations to place certified export orders will in general be limited to assisting the procurement in this country of the minimum quantities of materials required to maintain or expand the production in foreign countries of materials critically needed in this country, and other cases where the export is of high public importance and essential to the successful carrying out of the foreign policy of the United States.

For the purpose of this regulation "certified order" or "certified export or-

¹ Formerly: Title 32—National Defense, Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 945.

der" means a purchase or delivery order which is certified by the purchaser by use of the standard form of export preference certificate described in paragraph (h) (7) below, or by use of any other certificate authorized and entitled to preference under another ODC order, regulation or direction for export purposes.

CRITERIA FOR AUTHORIZATION

(b) *Cases when certified orders may be authorized.* (1) If all the conditions of paragraph (b) (2) below are met, authorizations to place orders with an export preference certificate may be granted to permit the placing and filling of certified orders for procurement in this country of the minimum quantities of materials under the circumstances described below:

(i) Where required to expand or maintain the production in foreign countries of materials critically needed in the United States; but only if it is found the proposed action will not have an unduly adverse effect on the domestic economy of the United States;

(ii) Where the Secretary of State has certified that the prompt export of materials is of high public importance and essential to the successful carrying out of the foreign policy of the United States, but only if the Secretary of Commerce has satisfied himself that the proposed action will not have an unduly adverse effect on the domestic economy of the United States.

(2) When effective assistance of other kinds is not practicable (ODC may locate sources able to ship without preferential aid), an authorization to use an export preference certificate may be granted for specific items and quantities of materials in the limited classes of cases described in paragraph (b) (1) above, upon determination in each instance that all the following conditions are met:

(i) The use of substitute and less scarce materials is not practicable;

(ii) Reasonable efforts have been made to get the required item without assistance; and

(iii) Preference assistance is required to obtain the item by the latest date and in the minimum quantity practicable, after taking into consideration material already acquired and material available without assistance.

APPLICATIONS FOR AUTHORIZATION

(c) *How to apply for an authorization to use an export preference certificate.* Application for an ODC authorization to use an export preference certificate for all destinations except Canada should be made by letter in quadruplicate, addressed to the Office of International Trade, Department of Commerce, Washington 25, D. C., Ref. AR-2. An application to the Office of International Trade for an export license for the materials must also be made, unless such a license is not required or unless a license has already been issued, as the Office of Domestic Commerce will not authorize the use of an export preference certificate unless any necessary export license has been obtained. Application for such a certificate for Cana-

dian destinations should be made directly to the Office of Domestic Commerce, Department of Commerce, Washington 20, D. C., Ref. AR-2, also by letter in quadruplicate. Such applications should give the following information:

(1) Exact nature of applicant's business, i. e., manufacturing farm equipment, steel mill, etc.

(2) Exact description of the item for which assistance is required, stating (a) for materials the kind, quality and unit of measure or (b) for equipment, the make, model, size, type, capacity, etc.

(3) The country of export destination, and the exact use to be made in that country of the item to be exported.

(4) Name of supplier and his present delivery promises, and his reasons for not promising satisfactory delivery dates. (Give the number and date of your purchase order.)

(5) Efforts made to obtain suitable substitutes or reasons why substitutes cannot be used.

(6) A full statement of the importance of making the export at this time from the standpoint of the interests of the United States.

(d) *How applications are granted.* If the application is granted, ODC will issue a written authorization to the applicant authorizing him to use an export preference certificate. He may then use the certificate described in paragraph (h) (7) below.

(e) [Deleted May 7, 1948.]

ACCEPTANCE OF CERTIFIED ORDERS

(f) *Rules for acceptance and rejection of certified orders.* Every certified order must be accepted and filled regardless of existing contracts and orders except in the following cases:

(1) A person must not accept a certified order for delivery on a date which would interfere with delivery on other certified or rated orders which he has already accepted, or if delivery of the material ordered would interfere with delivery on an order which the Office of Domestic Commerce has directed him to fill for that material or for a product which he makes out of it.

(2) A person must not accept a certified order for delivery on a date which can be met only by using material which was specifically produced for delivery on another certified order, and which is completed or is in production and scheduled for completion within 15 days.

(3) If a person, when receiving a certified order bearing a specific delivery date, does not expect to be able to fill it by the time requested, he must not accept it for delivery at that time. He must either (1) reject the order, stating when he could fill it, or (2) accept it for delivery on the earliest date he expects to be able to deliver, informing the customer of that date. He may adopt either of these two courses, depending on his understanding of which his customer would prefer.

(4) A certified order need not be (but may be) accepted in the following cases, but there must be no discrimination in such cases against certified orders, or between certified orders of different customers:

(i) If the person seeking to place the order is unwilling or unable to meet regularly established prices and terms of sale or payment (when a person authorized to place a certified order asks a supplier to quote his regularly established prices and terms of sale or payment or the earliest date on which he could make delivery on the certified order, the supplier must do so, except that if this would require detailed engineering or accounting work, he may give his best estimate without such work and state that it is not binding. However, the supplier need not quote if he is not required to accept the certified order and knows that he will not do so if he receives it. Any quotation as to delivery date to a person whose order has not been received will be subject to the effect on the supplier's deliveries of certified orders received by him after making the quotation and before he receives the firm order from the person making the inquiry)

(ii) If the order is for the manufacture of a product or the performance of a service of a kind which the person to whom the order is offered has not usually made or performed, and in addition if either (a) he cannot fill the order without substantially altering or adding to his facilities or (b) the order can readily be performed by someone else who has usually accepted and performed such orders.

(iii) If the order is for material which the person to whom the order is offered produces or acquires for his own use only, and he has not filled any orders for that material within the past two years. If he has, but the certified order would take more than the excess over his own needs, he may not reject the certified order unless filling it would interfere with other certified orders already on hand, or orders which the Office of Domestic Commerce has directed him to fill, for the material or for a product which he makes out of it.

(iv) If filling the order would stop or interrupt his production or operations during the next 40 days in a way which would cause a substantial loss of total production or a substantial delay in operations.

(5) Any person who fails or refuses to accept an order bearing a certificate provided for under this regulation shall, upon written request of the person placing the order, promptly give his reasons in writing for his failure or refusal.

(6) Some orders or directions of the Office of Domestic Commerce provide special rules as to the acceptance and rejection of orders for particular materials. In such cases, the rules stated above in this section are inapplicable to the extent that they are inconsistent with the applicable order or direction of the Office of Domestic Commerce. In addition, the Office of Domestic Commerce may specifically direct a person in writing to fill a particular purchase order or orders. In such cases he must do so without regard to any of the above rules in this paragraph (f), except that he may insist upon compliance with regularly established prices and terms of payment.

(7) *Certificates not effective for Government-owned surplus property.* The

above rules in this paragraph (f) for the acceptance and rejection of certified orders, and in paragraph (i) below for the sequence of filling certified orders, do not apply to sales of surplus material by Government agencies. The certificates on certified orders have no effect either by way of obliging a Government agency to sell surplus property or by way of determining as among several buyers who shall get the surplus property.

(g) *Report to Office of Domestic Commerce of improperly rejected orders.* When a certified order is rejected in violation of this regulation, the person who wants to place it may file a report of the relevant facts with the Office of Domestic Commerce which will take such action as it considers appropriate after requiring an explanation from the person rejecting the order.

PLACING CERTIFIED ORDERS

(h) *Description of certificates and how they are used—(1) How authorized.* The standard export preference certificate provided for under this regulation is described in (h) (7) below. Other orders or directions of the Office of Domestic Commerce may also permit the use of other special forms of certificates entitled to preference, such as that for the use of the symbol CXS on certain orders for tinplate, described in Direction 1 to this regulation. The standard certificate described below and certificates entitled to preference under any other Office of Domestic Commerce order or direction are of equal value and precedence. Authorizations to use the standard export preference certificate will be issued under the conditions described in this regulation. The use of other certificates will be authorized under the conditions stated in the ODC order or direction under which they are issued, which may provide that they shall be treated as export preference certificates.

(2) *Materials or facilities obtainable with certificates.* A person authorized to use a certified order may use the certificates only to get the quantities and kinds of materials or services authorized, as provided in § 336.18 of Allocations Regulation 1.

(3) *How to use a certificate.* The certificate with a certified order must be filled in, signed and delivered to the supplier in, accordance with the rules stated in Allocations Regulation 1, and with any special rules which may be stated in any other ODC order or direction permitting the use of any special form of certificate other than the standard export preference certificate.

(4) *Certificates not extendible.* A person receiving a certified order may not extend the certificate to any of his suppliers. If he is unable to fill the certified order without using a certificate to get some of the materials which he will need for that purpose, he may apply to ODC for an authorization to use a certificate for that purpose in accordance with this regulation.

~ (5) [Deleted May 7, 1948.]

(6) *Time limit on certificate.* An authorization to use an export preference certificate, or other certificate permitted under another ODC order or

direction for export purposes and entitled to preference, expires if not used on an order accepted by a supplier within 6 months of the date the use of the certificate was authorized. (However, a certified order is valid until it is filled, if it is accepted by a supplier within the time limit provided by this paragraph.) If the holder of an authorization to use an export preference certificate has been unable to use it before its expiration, he may apply to ODC for renewal. Furthermore, the certificate may not be used, even though the time limit stated above has not lapsed, if the purpose for which use of the certificate was authorized no longer exists.

(7) *Form of standard export preference certificate.* The standard export preference certificate must be in substantially the following form:

EXPORT PREFERENCE CERTIFICATE

The undersigned certifies to the caller and to the ODC, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that he is authorized to use this certificate for the materials described, in accordance with ODC Allocations Regulation 2. My authorization number is ---- (insert the ODC authorization number).

(If the above certification has been used in accordance with this regulation before its amendment containing reference to "ODC" instead of "ODC" its validity is not affected and the purchase order need not be recertified to make this change.)

(8) *Report to Office of Domestic Commerce of improper delay of orders.* When delivery or performance of a certified order is unreasonable or improperly delayed, the customer may file a report of the relevant facts with the Office of Domestic Commerce which will take such action as it considers appropriate after requiring an explanation from the person with whom the order is placed.

FILLING CERTIFIED ORDERS

(1) *Sequence of filling certified orders.* (1) Every person who has certified orders on hand must schedule his operations, if possible, so as to fill each certified order by the required delivery or performance date (determined as explained in paragraph (j) below). If this is not possible for any reason, he must give precedence to all certified over uncertified orders.

(2) As between conflicting certified orders, precedence must be given to the order which was received first with the certificate. As between conflicting certified orders received on the same date, precedence must be given to the order which has the earlier required delivery or performance date.

(3) If a certified order or the certificate applicable to an order is cancelled when the supplier has materials in production to fill it, he need not immediately stop to put other certified orders into production if doing so would cause a substantial loss of total production. He may continue to process that material which he had put into production for the cancelled order to a stage of completion which would avoid a substantial loss of total production, but he may not incorporate any material which he needs to fill any certified order on hand. He

may not, however, delay putting other certified orders into production for more than 15 days.

(j) *Delivery or performance dates.* (1) Every certified order must specify delivery or performance on a particular date or dates or within specified periods of not more than 31 days each, which in no case may be earlier than required by the person placing the order. Any order which fails to comply with this rule must be treated as an uncertified order. The words "immediately" or "as soon as possible" or other words to that effect, are not sufficient for this purpose.

(2) The required delivery or performance date, for purposes of determining the sequence of deliveries or performance pursuant to paragraph (i) shall be the date on which delivery or performance is actually required. The person with whom the order is placed may assume that the required delivery or performance date is the date specified in the order or contract unless he knows either (1) that the date so specified was earlier than required at the time the order was placed, or (2) that delivery or performance by the date originally specified is no longer required by reason of any change of circumstances. A delay in the scheduled receipt of any other material which the person placing the order requires prior to or concurrently with the material ordered, shall be deemed a change of circumstances within the meaning of the foregoing sentence.

(3) If, after accepting a certified order which specifies the time of delivery, the person with whom it is placed finds that he cannot fill it on time or within 15 days following the specified time, for any reason, he must promptly notify the customer, telling him approximately when he expected to be able to fill the order. Inability to fill the order on time or within fifteen days following the specified time does not authorize a supplier to cancel the order.

MISCELLANEOUS PROVISIONS

(k) *Appeals.* Any person who considers that compliance by himself or another with this regulation would work an exceptional and unreasonable hardship on him may appeal to the Office of Domestic Commerce for relief.

(l) The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 183 and 427, 80th Congress) Pub. Law 4691, 80th Congress; Executive Order 934, April 23, 1947, 12 F. R. 2645; Executive Order 9342, April 1, 1943, 13 F. R. 1823; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

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OFFICE OF DOMESTIC
COMMERCE,
By RAYMOND S. HOOVER,
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10:03 a. m.]

[Allocations Reg. 2, Direction 1,¹ as Amended May 7, 1948]

PART 336—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

USE AND EFFECT OF SYMBOL CXS ON CERTAIN EXPORT ORDERS FOR TINPLATE

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of tinplate and facilities for making tinplate, for defense, for private account and for export; and the following direction is deemed necessary and appropriate in the public interest and to promote the national defense and to effectuate the policies set out in the legislation under which this direction is administered.

(a) *What this direction does.* This direction explains how certain exporters who have been authorized by the Office of International Trade, Department of Commerce, to use the symbol CXS (Certified Export Steel) on purchase orders for limited quantities of tinplate should furnish that information to steel producers. Such orders when properly certified are to be treated as certified export orders under Allocations Regulation 2. The Office of Domestic Commerce may also establish space reservations on steel producers' schedules for the benefit of these export orders.

(b) *Identification of certified export orders.* Any person who has been authorized in writing by the Office of International Trade, Department of Commerce, to use the symbol CXS on purchase orders for limited quantities of tinplate should, in addition to marking his purchase order with the symbol, specify the period in which shipment has been designated, and furnish the steel producer with a certificate, signed manually or as described in Allocations Regulation 1, in substantially the following form:

I certify, subject to the penalties of section 35A of the United States Criminal Code, that the tinplate covered by this purchase order is within the quantity which I have been authorized by the Office of International Trade, Department of Commerce, to purchase by orders identified with the symbol CXS.

(c) *Requests for authorization to use the symbol CXS.* All requests for authorization to use the symbol CXS should be addressed to the Steel Section, Office of International Trade, Department of Commerce, Washington 25, D. C.

(d) *Certified orders entitled to preference.* Unless the ODC directs otherwise, any purchase order certified under this Direction must be treated as a certified export order under Allocations Regulation 2, and be accepted, scheduled, and delivered accordingly. The rules of Allocations Regulation 2 will apply, except to the extent that this Direction is inconsistent with them. Tinplate obtained on certified orders must be used in accordance with § 336.5 of Allocations Regulation 1.

(e) *Refusal of certified orders.* (1) CXS orders may only be placed with steel producers for mill shipments. They may not be placed with distributors for shipment from warehouses.

(2) Steel producers need not accept a CXS certification on a previously accepted purchase order, or a new purchase order, which was received less than 45 days before the beginning of the month in which delivery is requested.

(f) *Other distribution of steel for export.* The provisions of this direction do not re-

strict acceptance, scheduling or shipment of noncertified orders for export, if this does not interfere with shipments of certified orders.

(g) *Delegation to OIT.* The Office of International Trade, Department of Commerce, may authorize the use of the symbol CXS under this direction on purchase orders for tinplate, but only to the extent and under the conditions authorized by the Office of Domestic Commerce in writing and transmitted to the Office of International Trade. The Office of International Trade may exercise this authority through such of its officials as the director of that Office may determine.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress) Executive Order 9841, April 23, 1947, 12 F. R. 2645; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

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[Allocations Reg. 2, Direction 2,¹ as Amended May 7, 1948]

PART 336—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

SPECIAL RULES FOR PLACING AND SCHEDULING CERTIFIED ORDERS FOR STEEL, COPPER AND ALUMINUM

(a) *What this direction does.* This direction explains some special rules for placing, accepting, and scheduling certified orders for steel, copper and aluminum. These rules supersede some of the provisions of Allocations Regulation 2 concerning the ordinary use of certificates, but only those rules of Allocations Regulation 2 which are contradictory to this direction are superseded, and all other rules in that regulation continue to apply.

(b) *Required delivery dates.* A certified order for steel, copper or aluminum in the forms listed below must specify delivery on a particular date or a particular month, which in no case may be earlier than required by the person placing the order. A producer of steel, copper or aluminum must schedule the order for delivery within the requested month as close to the requested delivery date as is practicable in view of the need for maximum production.

(c) *Rejection of certified orders.* A producer of steel, copper or aluminum in the forms listed below need not accept a certified order which is received less than 30 days (45 days in the case of tinplate) prior to the first day of the month in which shipment is requested, unless specifically directed to accept the order by the Office of Domestic Commerce.

(d) *Forms of steel, copper and aluminum to which this direction applies.* This direction applies to the following forms of steel, copper and aluminum:

Carbon and alloy iron and steel (including stainless steel).
Bars, cold finished.
Bars, hot rolled or forged.
Ingot, billets, blooms, slabs, die blocks, tube rounds, sheet and tin bar, and skelp.
Pipe, including threaded couplings of the type normally supplied on threaded pipe by pipe mills.
Plates.
Rail and track accessories.

Sheet and strip.

Castings (rough as cast).

Structural shapes and piling.

Tin plate, terne plate and tin mill black plate.

Tubing.

Wheels, tires and axles.

Wire rods, wire and wire products.

Forgings (rough as forged).

Copper and copper base alloy products:

Alloy sheet, strip and plate.

Alloy rods, bars and wire.

Alloy seamless tube and pipe.

Plate, sheet and strip.

Rods, bars and wire.

Tube and pipe.

Wire and cable.

Castings (before machining).

Aluminum products:

Rod and bar.

Wire (under 3/8").

Cable (electrical transmission only).

Rivets.

Forgings and pressings (before machining).

Impact extrusions.

Castings.

Rolled structural shapes (angles, channels, zees, tees, etc.).

Extruded shapes.

Sheet, strip and plate.

Slugs.

Foil.

Tubing.

Tube blooms.

Powder (including atomized, granular, flake, paste, and pigment).

Ingot, pig, billets, slabs, etc.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress), Executive Order 9841, April 23, 1947, 12 F. R. 2645; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

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[Allocations Reg. 2, Direction 4,¹ as Amended May 7, 1948]

PART 336—REGULATIONS APPLICABLE TO OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

USE AND EFFECT OF SYMBOL CXN ON CERTAIN EXPORT ORDERS FOR NITROGENOUS FERTILIZER MATERIALS (1947-8 PROGRAM)

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of nitrogenous fertilizer materials for defense, for private account and for export; and the following direction is deemed necessary and appropriate in the public interest and to promote the national defense and to effectuate the policies set forth in the legislation under which this direction is administered.

(a) *What this direction does.* This direction explains how persons who wish to get nitrogenous fertilizer materials for export (under the 1947-8 program) to countries other than Canada can get permission to use the symbol CXN (Certified Export Nitrogenous Fertilizer Materials) on purchase orders for such materials. It also states how the symbol should be used and what its effect is.

¹Formerly: Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 945.

(b) *How to get permission to use the symbol CXN.* All requests for permission to use the symbol CXN to get nitrogenous fertilizer materials should be made by letter to the Office of International Trade, Department of Commerce, Washington 25, D. C. Ref: AR-2, Dir. 4. Advice as to the conditions under which requests for permission to use the symbol CXN may be approved and the amounts recommended for allocation by the International Emergency Food Council, and agreed to by the representative of the U. S. on that Council, for export from the United States to various countries can be obtained from the Office of International Trade, Department of Commerce. Permission to use the symbol CXN will not be given except when an export license is also given.

(c) *How to use the symbol CXN.* (1) When a person has been authorized in writing by the Office of International Trade, Department of Commerce, to use the symbol CXN on purchase orders for specified quantities of nitrogenous fertilizer materials, he should place on his purchase order the symbol CXN, the export license number given by the Office of International Trade, and the country of destination. In addition he should furnish to his supplier a certificate, signed manually or as described in Allocations Regulation 1, in substantially the following form:

I certify, subject to the penalties of Section 35A of the United States Criminal Code, that the nitrogenous fertilizer materials covered by this purchase order are within the quantity which the Office of International Trade, Department of Commerce, has authorized me to purchase by orders identified with the symbol CXN for shipment to the specified country of destination, under the export license number specified.

(2) The symbol CXN and the accompanying certificate may not be used except on purchase orders placed with producers of the specified nitrogenous fertilizer materials or with agents of such producers. When an order bearing the symbol CXN and the certificate is placed with a producer's agent, it has the same effect as though it had been placed with the producer.

(d) *Effect of the symbol CXN on purchase orders.* Any purchase order certified under this direction must be treated as a certified export order under Allocations Regulation 2, and must be accepted, scheduled, and delivered accordingly. The rules of Allocations Regulation 2 apply, except to the extent that this direction is inconsistent with these rules. Paragraph (e) below contains certain special rules which limit the effect of such certified orders under this direction.

(e) *Limitation on the effect of the symbol CXN on purchase orders—(1) Time limit on placing orders.* Purchase orders certified under this direction must be placed no later than November 15, 1947, or such later date as may be authorized by ODC (or its predecessor OMD) because of special circumstances. Orders placed after November 15, 1947, or such later date as may be authorized, shall not be treated as certified orders.

(2) *Delivery dates.* No purchase order certified under this direction may call for delivery on or after January 1, 1948, of more than 40% of each type of nitrogenous fertilizer material covered by the order. Any purchase order which fails to meet this condition shall not be treated as a certified order.

(3) *Ceiling on orders on producers.* Unless otherwise directed by the Office of Domestic Commerce a producer need not accept a purchase order certified under this direction for any of the following nitrogenous materials, if the amount of the material covered by the order, together with the amounts of that material covered by previously accepted orders certified under this direction would exceed the specified percentage of his total

production of that material in the year ended June 30, 1947:

Material:	Percent
Ammonium Sulphate.....	9
Ammonium Nitrate.....	16
Ammonium Phosphate.....	42
All other Nitrogenous Solids.....	4
All Nitrogenous Solutions.....	2

(f) *Delegation.* The Office of International Trade, Department of Commerce, may authorize the use of the symbol CXN under this direction on purchase orders for nitrogenous fertilizer materials, but only to the extent and under the conditions authorized by the Office of Domestic Commerce, Department of Commerce, in writing and transmitted to the Office of International Trade. The Office of International Trade may exercise this authority through such of its officials as the Director of that office may determine.

(g) *Appeals.* Any person who considers that compliance by himself or another with this direction would work an exceptional and unreasonable hardship on him may appeal to the Office of Domestic Commerce for relief.

(h) *Assistance in finding suppliers.* If any person authorized to use the symbol CXN is unable to find a supplier who can accept his order, he may apply to the Priorities Division, Office of Domestic Commerce which will, wherever possible, refer him to other suppliers who have available supplies.

(i) *Reports.* Producers of nitrogenous fertilizer materials must file with the Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., such reports as may be required by that Office, with the approval of the Bureau of the Budget.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress), Executive Order 9841, April 23, 1947, 12 F. R. 2645; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

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[Allocations Reg. 3, as Amended May 7, 1943]

PART 336—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

REVIEW-APPEALS PROCEDURE

Section 336.45 *Allocations Regulation 3* (formerly § 945.45) is amended to read as follows:

INDEX

Par.

- (a) What this regulation covers.
- (b) What a review-appeal is.
- (c) What the Appeals Board is.
- (d) When a review-appeal may be made.
- (e) How to prepare and file review-appeals.
- (f) Basis for grant or denial.
- (g) Form of grant or denial.
- (h) Finality of denial.
- (i) Policies of Appeals Board.
- (j) Hearings by Appeals Board.
- (k) Presentation of case at hearing.

§ 336.45 *Allocations Regulation 3.*

PURPOSE

(a) *What this regulation covers.* This regulation explains the "review-appeals"

¹ Formerly: Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 945.

procedure of the Office of Domestic Commerce and the operations of the Appeals Board. It does not apply to appeals from suspension orders issued in connection with compliance proceedings.

DEFINITIONS

(b) *What a review-appeal is.* Various ODC orders and regulations provide for (1) appeals for individual relief from their restrictions or (2) applications for individual authorizations, allocations, and other types of assistance. (In this regulation, such appeals and applications are referred to as "initial submissions".) An initial submission is generally granted or denied on the decision of the ODC official administering the particular order or regulation. A "review-appeal" is the procedure by which an applicant can request the ODC Appeals Board to review such a decision upon the ground that it would:

(1) Work an exceptional and unreasonable hardship on him which is not suffered generally by others in the same industry or activity; or

(2) Result in improper discrimination against him.

(c) *What the Appeals Board is.* The Appeals Board is composed of the Director of ODC, the Assistant Director, and one or more high-ranking officials of the Director's staff. It acts as the final agency authority in considering review-appeals. It may also decide any initial appeal received by the official administering the order or regulation under which the appeal was filed and, in his discretion, referred by him to the Appeals Board. The Appeals Board will not normally consider any cases which do not involve claims of hardship or discrimination, as specified in paragraph (b) above. It is not its ordinary function to review actions involving judgment as to the proper distribution of materials, programming of different types of production, and their relative essentiality.

SUBMISSION OF REVIEW-APPEALS

(d) *When a review-appeal may be made.* When a person is dissatisfied with the decision on his initial submission he may file a review-appeal to the Appeals Board under the following conditions:

(1) If he feels that the decision was improper upon the basis of the hardship or discrimination grounds specified in paragraph (b) above; and

(2) If he has no new and substantial facts to submit for reconsideration by the official who made the original decision (or his representative) or has submitted such facts and failed to obtain a satisfactory decision on such reconsideration. (If he does have new and substantial facts to submit, he should not file a review-appeal to the Appeals Board but should, instead, first resubmit his case for reconsideration upon the basis of those facts. Then, if such reconsideration does not result in a satisfactory decision, he may file a review-appeal on the grounds mentioned in (d) (1) above.)

(e) *How to prepare and file review-appeals.* An appellant should file his review-appeal by letter in triplicate addressed as follows: Appeals Board, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C.

The letter must specifically state that it is a review-appeal and must be signed by the appellant (or by a duly authorized official of appellant's concern). It should specify the order or regulation involved, the particular provision involved, the decision appealed from, and any form or case number involved. It should clearly set out the grounds for claiming hardship or discrimination, as specified in paragraph (b) above. A review-appeal not properly prepared or filed may be returned to the appellant without action.

GRANTS AND DENIALS

(f) *Basis for grant or denial.* If the Appeals Board finds that an appellant has demonstrated hardship or improper discrimination, as specified in paragraph (b) above, appropriate relief will be granted. However, if the Appeals Board finds that he has failed to demonstrate either, his appeal will be denied.

(g) *Form of grant or denial.* The grant or denial of any appeal, in whole or in part, will be valid only when issued in writing, in the name of the Office of Domestic Commerce, countersigned or attested by the Issuance Officer. Where the decision on an appeal is made by the Appeals Board, that fact will be stated in the grant or denial by a phrase such as "on the decision of the Appeals Board."

(h) *Finality of denial.* The denial of any appeal, in whole or in part, on the decision of the Appeals Board represents final agency action. The Appeals Board may elect to reopen a case, but will not ordinarily do so unless the appellant offers new and substantial information in addition to that previously supplied.

APPEALS BOARD PROCEDURES

(i) *Policies of the Appeals Board.* Owing to changing conditions, the Appeals Board cannot always follow "precedents" established in earlier cases. It is the policy of the Board, however, to follow previous decisions so long as to do so is consistent with existing ODC policies.

Whether a hardship is exceptional and unreasonable or whether there has been improper discrimination is often a question of degree. The Board weighs carefully the facts in each case in the light of similar hardships falling upon others. The Board may consider hardships upon the appellant, the appellant's employees, the local community, or particular consumers. It considers only evidence which is relevant and material to the issues.

(j) *Hearings by the Appeals Board.* In its discretion, the Appeals Board may hold a hearing on any review-appeal, either upon its own initiative (in order to obtain additional facts not contained in the record) or upon request by the appellant. The appellant's case is not prejudiced by the fact that he does not request a hearing. If a hearing is to be held, the Appeals Board will fix the date and time after consulting with the appellant. Hearings are held only in Washington, D. C., at the offices of ODC.

(k) *Presentation of case at a hearing.* The Appeals Board is not a judicial body.

Its proceedings are not limited by legal rules or evidence. Hearings before the Board are informal. An appellant may present his case in his own way. He does not have to be represented by counsel, but may be if he desires. If he is represented by counsel, but does not accompany counsel at the hearing, the appellant must notify the Appeals Board in writing that he has authorized counsel to represent him, at the hearing and has supplied counsel with the information necessary for presenting appellant's case. Ordinarily, the oath is not administered to witnesses. Nevertheless, any misrepresentation of fact, or any withholding of fact, is punishable under the federal statutes. The obligation is just as serious as if the oath were administered. The following comments may be of help to applicant:

(1) It is well to open a case with a short statement of the issues involved and the facts relied on as working hardship or discrimination, as specified in paragraph (b) above.

(2) The appellant should then develop the issues in greater detail, so as to give the Board a clear understanding of the supporting facts.

(3) All statements intended to bear upon the Board's decision should, so far as possible, be supported by proof or exhibits.

(4) It is often convenient, although not necessary, to provide the members of the Board with individual copies of a written statement of statistical and other pertinent data offered in support of the appeal.

(5) Where an appeal involves highly technical facts, the appellant should be prepared to present expert witnesses or technical reports if he is not qualified to discuss such facts himself.

(6) Following the appellant's statement, the official who previously considered the case (or his representative) is heard; if he wishes to make any statement. Members of the Board then usually ask questions relating to the issues involved, as they are entitled to do at any point in the proceedings.

(7) Any other persons claiming an interest in an appeal may then, in the discretion of the Appeals Board, be given an opportunity to be heard. This may include the appellant's customers, competitors, or representatives of various government agencies.

(8) The appellant, before the hearing is closed, is then given an opportunity to answer such comments as have been made.

(9) Hearings are expected to take not more than one hour but additional time may be granted in exceptional circumstances.

(10) A verbatim transcript of the hearings is ordinarily not taken. However, a summary of the testimony is usually made, and becomes a part of the record. A copy of that summary will be supplied the appellant on request.

(Second War Powers Act 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress), Pub. Law 4691, 80th Congress; Executive Order 984, April 23, 1947, 12 F. R. 2645; Executive Order 9942, April 1, 1948, 13

F. R. 1823; Materials Control Regulation 1, amended May 7, 1948, *supra*)

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OFFICE OF DOMESTIC
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PART 338—MATERIALS ORDERS

TIN

[Conservation Order M-43,¹ as Amended May 7, 1948]

Section 338.1 *Conservation Order M-43* (formerly § 1001.1) is amended to read as follows:

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of tin for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense and to effectuate the policies set forth in the legislation under which this order is administered:

INDEX

- (a) What this order does.
- (b) Restriction on deliveries of pig tin.
- (c) Allocations of pig tin.
- (d) Reports on use, disposition and inventories of pig tin.
- (e) General restrictions on the use of pig tin, secondary tin, tin plate, terne plate, solder, babbitt and other tin-bearing alloys.
- (f) [Deleted February 6, 1947.]
- (g) Special restrictions on the use of metals to which pig tin has been added.
- (h) [Deleted February 6, 1947.]
- (i) Exemptions for implements of war.
- (j) General restrictions on the use and sale of tin-bearing products.
- (k) Special restrictions on purchases and sales of certain articles containing tin.
- (l) Limitation on inventories.
- (m) Import restrictions.
- (n) Export certificates.
- (o) Appeals and communications.
- (p) Violations.

Schedules of Permitted Uses

Schedule I—Miscellaneous.

Schedule II—Solders.

Schedule III—Babbitt.

Schedule IV—Brass and bronze.

A. Cast alloys.

B. Wrought alloys.

Schedule V—Tin plate, terne plate, and terne metal.

§ 338.1 *Conservation Order M-43.* *Purpose*

(a) *What this order does.* This order prohibits deliveries of pig tin except under certain conditions and provides for allocation of pig tin by the Office of Domestic Commerce. It also restricts the use of pig tin, secondary tin, certain tin-bearing products and tinplate in manufacture. The order also restricts sales and deliveries of jewelry and certain other articles containing tin. Al-

¹ Formerly: Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 1001—Tin.

though paragraph (h) of the order which contained special restrictions on the use of tin in jewelry and certain other articles has now been deleted, all other provisions of the order still apply to these articles, including the restrictions of paragraphs (e) and (g) on use of tin, and the special sales restrictions of paragraph (k). The order also limits inventories of tin. Further restrictions on the use of tin in making tin cans are contained in Order M-81.

In addition to the above restrictions, this order now contains restrictions on the import of tin in various forms (exclusive of tin ores and concentrates)

Deliveries of Pig Tin

(b) *Restriction on deliveries of pig tin.* No person shall deliver or accept delivery of pig tin without a specific allocation in writing by the Office of Domestic Commerce except under the conditions set forth in paragraphs (b) (1) and (b) (2) below.

Except as may be specifically authorized in writing by the ODC, no person shall receive pig tin for processing by him for another person's account (under toll agreement or otherwise), and no person shall deliver pig tin to another person for processing by the latter for the former's account (under toll agreement or otherwise)

"Pig tin" means metal containing 98% or more by weight of the element tin, in shapes current in the trade (including anodes powder, small bars and ingots) produced from ores, residues or scrap. It also includes tin pipe or tubing.

(1) *Exception for deliveries to RFC.* Pig tin may be delivered without specific allocation to the Office of Metals Reserve, Reconstruction Finance Corporation, or its agent.

(2) *Small-order exception.* Pig tin may be delivered, without specific authorization, by a distributor in quantities totalling not more than 4,000 pounds per calendar month to any customer who (i) receives that pig tin only for use or processing by him in his own plant or for resale in accordance with this Order M-43, (ii) does not receive from all sources more than 4,000 pounds of pig tin in the month the distributor makes delivery, and (iii) gives to the distributor at the time he places his purchase order a certificate in substantially the form below, signed manually or as provided in Allocations Regulation 1 by an official duly authorized for that purpose:

I certify, subject to the penalties of section 35 (A) of the United States Criminal Code, that I will use this pig tin for _____ (specify end use) in accordance with Order M-43 or will resell it only in accordance with that order. I will not receive more than 4,000 pounds of pig tin from all sources in _____ (specify month of delivery) including the amount covered by this order.

(Name of purchaser)

By _____
(Duly authorized official)

See paragraph (n) below regarding certificate for export.

(c) *Allocations of pig tin.* The Office of Domestic Commerce will allocate the supply of pig tin, including all pig tin

released by the Reconstruction Finance Corporation, and will issue specific directions as to the source, destination and amount of pig tin to be delivered or acquired. Applications for allocations of pig tin should be made to the Office of Domestic Commerce not later than the 20th day of the month before the month in which delivery is requested, and should be made on Form ODC-412. Except in unusual circumstances, the Office of Domestic Commerce will not allocate to a person for a calendar quarter an amount greater than 110% of the quantity he legally melted and put into process during the second quarter, 1946, plus the quantity which he sold during that quarter. Applications from persons who did not use pig tin during the base period (including persons who were not in business at that time) will be considered on an equitable basis. Tin requested for resale must be disposed of only by resale. The Office of Domestic Commerce may specifically direct the purposes and end products for which a person may convert, process or fabricate pig tin whether or not directly allocated to him.

(d) *Reports on use, disposition and inventories of pig tin.* (1) On or before the 10th of each calendar month, each distributor of pig tin must report to the Office of Domestic Commerce on Form ODC-412 or by letter in triplicate all of his transactions in pig tin during the previous month.

(2) Any person who, on the first day of a calendar month, has in his possession or under his control 2,000 pounds or more of pig tin must report to the Office of Domestic Commerce on Form ODC-412 by the 20th of that month.

(3) Any person who uses 1,000 pounds or more of pig tin in any calendar month must report to the Office of Domestic Commerce on Form ODC-412 on or before the 20th of the following month.

(4) The reporting requirements of this order have been approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

Use of Tin in Manufacture

(e) *General restrictions on the use of pig tin, secondary tin, tin plate,terne plate, solder, babbitt and other tin-bearing materials.* No person may use any pig tin, secondary tin, tin plate,terne plate, solder, babbitt, copper base alloys or other alloys containing 1.5% or more tin, or any other materials containing 1.5% or more tin, or any britannia metal pewter metal or other similar tin-bearing alloys to make or treat any item or product, or in any process, not set forth in one of the schedules attached to this order. In making or treating these items, or performing these processes, pig tin may be used only when, and to the extent, specified in the schedules but may not be used where the schedule permits secondary tin only. The tin content of an item may not exceed the amount indicated in the schedule.

"Pig tin" means metal containing 98% or more by weight of the element tin, in shapes currently in the trade (including anodes, powder, small bars, and ingots) produced from ores, residues or scrap. It also includes tin pipe or tubing. "Secondary tin" means any alloy which

contains less than 98% but not less than 1.5% by weight of the element tin.

(f) [Deleted February 6, 1947.]

(g) *Special restrictions on the use of metals to which pig tin has been added.* No person may use metal to which pig tin has been added to produce any product or perform any process for which pig tin is not permitted by one of the schedules attached to this order.

(h) [Deleted February 6, 1947.]

Implements of War

(i) *Exemption for implements of war.*

(1) The restrictions of paragraphs (e) and (g) and of the schedules do not apply to the manufacture of "Implements of war" produced for the Army or Navy of the United States, or the U. S. Maritime Commission, where the use of tin contrary to these restrictions is required either by the latest applicable specifications, on drawings, or by letter or contract of the government service or agency for which the "Implements of war" are being produced.

(2) "Implements of war" means combat end-products, complete for tactical operations (including, but not limited to aircraft, ammunition, armaments, weapons, ships, tanks, military vehicles and radio and radar equipment) and any parts, assemblies or materials to be incorporated in any of these items. This term does not include facilities or equipment used to manufacture the items described above nor does it include any "in process" materials or any other materials not actually to be incorporated into the items described above.

Use and Sale of Articles Containing Tin

(j) *General restrictions on the use and sale of tin-bearing products.* (1) In some cases of the schedules attached to this order permit the use of pig tin or secondary tin in making a product only if the product is to be used for a particular purpose. No person shall use any of these products for any purpose other than the purpose permitted by the schedule.

(2) No person giving a certificate under this order or its schedules may receive, use or dispose of the materials obtained with the certificate contrary to its terms.

(3) Notwithstanding the authorization by the Office of Domestic Commerce of a sale or delivery of tin, no person shall sell or deliver any tin or tin-bearing material or product thereof in the form of raw materials, semi-processed materials, finished parts or subassemblies to any person if he knows or has reason to believe such material or any product thereof is to be used in violation of the terms of this order. A supplier may rely upon the written statement of the customer seeking delivery of any such material, as to the purposes for which it will be used, unless the supplier knows or has reason to believe the statement is false, and such a statement shall constitute, on the part of the person making it, a representation to the Office of Domestic Commerce within the meaning of section 35 (A) of the United States Criminal Code, 18 U. S. C. sec. 80.

(4) Certificates furnished by purchasers should be in substantially the

following form, except when otherwise required by paragraph (b) (2) above (*Small-order exception*) by paragraph (n) below (*Export certificates*) or by provisions in the schedules attached to this order:

I certify, subject to the penalties of section 35 (A) of the United States Criminal Code, that I will use this tin or tin product for ¹ (*specify end use*) in accordance with Order M-43 (Schedule _____, paragraph _____) or will resell it only in accordance with that order.

Name of purchaser
By -----
Duly authorized official.

¹Where appropriate, substitute the following for the portion beginning "for (*specify end use*)":

in accordance with the "implements of war" provisions of paragraph (i) of Order M-43.

(k) *Special restrictions on purchases and sales of certain articles containing tin.* No person, for the purpose of resale, shall receive from a manufacturer any new article of the kinds listed below, if the article contains tin in any form except tin plate waste waste, orterne plate waste, waste, tin plate scrap orterne plate scrap, solder used for joining purposes (to the extent permitted by Schedule II) or brass or bronze (to the extent permitted by Schedule IV) No person shall sell or deliver any new article of the kinds listed below, if the article contains tin in any form except tin plate waste waste, orterne plate waste waste, tin plate scrap orterne plate scrap, solder used for joining purposes (to the extent permitted by Schedule II), or brass or bronze (to the extent permitted by Schedule IV), unless he has an authorization in writing from the Office of Domestic Commerce for the sale or delivery. A person who wishes to get such an authorization should apply to the Office of Domestic Commerce by letter in triplicate, giving a report of his inventory of all of the items listed below containing tin in any form except tin plate waste waste, orterne plate waste waste, tin plate scrap orterne plate scrap, solder used for joining purposes (to the extent permitted by Schedule II) or brass or bronze (to the extent permitted by Schedule IV) showing the quantity of each item in his possession on March 1, 1945, the names and addresses of the sellers from whom he bought the items, and the dates the purchases were made. Authorizations will ordinarily be given, except where it appears that the purchases were in violation of Order M-43. "New article" means one which has not been used by an ultimate consumer. A purchaser for resale of articles of the kinds listed below may reply on a written certification by his supplier that they contain no tin in any form except tin plate waste waste orterne plate waste waste, tin plate scrap orterne plate scrap, solder used for joining purposes (to the extent permitted by Schedule II) or brass or bronze (to the extent permitted by Schedule IV) unless he knows or has reason to believe the statement is false.

1. Advertising specialties.
2. Art objects.
3. Britannia metal, pewter metal or other similar tin-bearing alloy.
4. Buckles.
5. Buttons.
6. Emblems and insignia.
7. Jewelry.
8. Novelties, souvenirs and trophies.
9. Ornaments and ornamental fittings.
10. Toys and games.

Inventories

(i) *Limitation on inventories.* No person who uses any material listed in Column 1 below shall accept delivery of any of that material if his inventory of it is, or will by virtue of such acceptance become, more than the amount which he will be required by his current practices to put into use, during the next succeeding period of the length specified in Column 2 below, in order to carry out his current operations for permitted uses:

Material - (1)	Maximum days' supply (2)
a. Pig tin-----	90 days (for manufacture of tin plate). 45 days (for any other permitted use).
b. Solder (as defined in Schedule II to M-43).	30 days.
c. Babbitt (as defined in Schedule III to M-43).	30 days.
d. Copper base alloys (containing 1.5% or more of tin).	45 days.
e. Other alloys containing 1.5% or more tin (except solder, babbitt, and copper base alloys).	30 days.

Imports

(m) *Import restrictions.* This paragraph (m) contains the ODC restrictions on the import of tin in various forms (exclusive of tin ores and concentrates)

(i) *Definitions.* For the purposes of this paragraph (m)

(i) "Tin subject to import control under this order" means any tin in any raw, semi-finished, or scrap form, and any alloys, compounds, or other materials containing tin (where tin is of chief value) in any raw, semi-finished, or scrap form. This includes, but is not limited, to, the following:

Babbitt metal and solder-----	6506.100
Alloys and combinations of lead, not in chief value lead (including leady antimony and white metal)-----	6506.900
Tin bars, blocks, pigs, grain or granulated-----	6551.300
Tin metallic scrap (except alloyed scrap)-----	6551.500
Tin alloys, chief value tin n. s. p. f. (including alloy scrap)-----	6551.900
Tin foil less than .0008 inch thick-----	6790.710
Tin powder flitters and metallics-----	6790.720
Tin bichloride, tin tetrachloride and other chemical compounds, mixtures, and salts, tin chief value (including tin oxide)-----	8380.920

NOTE: The numbers listed in the second column are commodity numbers taken from Schedule A, Statistical Classification of Im-

ports into the United States, issued by the U. S. Department of Commerce (September 1, 1946 Edition).

(ii) "Owner" of any material means any person who has any property interest in such material except a person whose interest is held solely as security for the payment of money.

(iii) "Consignee" means the person to whom a material is consigned at the time of importation.

(iv) "Import" means to transport in any manner into the continental United States from any foreign country or from any territory or possession of the United States. It includes shipments into a free port, free zone, or bonded custody of the United States Bureau of Customs (bonded warehouse) in the continental United States and shipments into the continental United States for processing or manufacture in bond for exportation.

It does not include shipments in transit in bond through the continental United States without processing or manufacture, to Canada, Mexico or any other foreign country, or shipments through a free port or free zones to a foreign country without processing or manufacture. However, if any material covered by the preceding sentence is, because of a change in plans, to be sold or used in the continental U. S. or subjected to processing or manufacture in the continental United States, it becomes an "import" for the purposes of this paragraph (m) and requires the same authorization as an "import" before it may be moved from a free port, free zone, or bonded custody.

(2) *Restrictions on imports*—(i) *General restriction.* No person, except as authorized in writing by the Office of Domestic Commerce, shall purchase for import, import, offer to purchase for import, receive, or offer to receive on consignment for import, or make any contract or other arrangement for the importing of, any tin subject to import control under this order. The foregoing restrictions shall apply to the importation of any tin subject to import control under this order regardless of the existence of any contract or other arrangement for the importation of such material.

(ii) *Authorization by Office of Domestic Commerce.* Any person desiring such authorization, whether owner, purchaser, seller, or consignee of the material to be imported, or agent of any of them, shall make application therefore in duplicate on Form ODC-1041 addressed to the Tin and Antimony Section, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref. M-43. Unless otherwise expressly permitted, such authorization shall apply only to the particular material and shipment mentioned therein and to the persons and their agents concerned with such shipment; it shall not be assignable or transferable either in whole or in part.

(iii) *Restrictions on financing of imports.* No bank or other person shall participate, by financing or otherwise in any arrangement which such bank or person knows or has reason to know involves the importation of any tin subject

to import control under this order, unless such bank or person either has received a copy of the authorization issued by the Office of Domestic Commerce under the provisions of paragraph (m) (2) (ii) above or is satisfied from known facts that the proposed transaction comes within the exceptions set forth in paragraph (m) (2) (iv) below.

(iv) *Exceptions.* Unless otherwise directed by the Office of Domestic Commerce, the restrictions set forth in this paragraph (m) (2) shall not apply.

(a) To the Reconstruction Finance Corporation, U. S. Commercial Company, or any other United States Governmental department, agency, or corporation, or any agent acting for any such department, agency or corporation; or

(b) To any material of which any United States governmental department, agency, or corporation is the owner at the time of importation, or to any material which the owner at the time of importation had purchased or otherwise acquired from any United States governmental department, agency, or corporation; or

(c) To any material consigned or imported as a sample where the value of each consignment or shipment is less than \$25.00.

(3) *Reports*—(i) *Reports on customs entry.* No tin subject to import control under this order including materials imported by or for the account of the Reconstruction Finance Corporation, U. S. Commercial Company, or any other United States governmental department, agency or corporations, shall be entered through the United States Bureau of Customs for any purpose, unless the person making the entry shall file with the entry Form ODC-1040 in duplicate. The filing of such form a second time shall not be required upon any subsequent entry of such material through the United States Bureau of Customs for any purpose; nor shall the filing of such form a second time be required upon the withdrawal of any material from bonded custody of the United States Bureau of Customs, regardless of the date when such material was first transported into the continental United States. Both copies of such form shall be transmitted by the Collector of Customs to the Tin and Antimony Section, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref. M-43.

(ii) *Other reports.* All persons having any interest in, or taking any action with respect to any tin subject to import control under this order, whether as owner, agent, consignee, or otherwise, shall file such other reports as may be required from time to time by the Office of Domestic Commerce.

Exports

(n) *Export certificates.* Some provisions of this order and its Schedules permit sales or deliveries of certain items only upon certificates from the purchasers. In cases where the purchaser is going to export such an item outside the United States, its territories or possessions, or Canada, he should state as the end use in the certificate the words "for export" and give the number of the export license.

No. 92—4

Miscellaneous

(o) *Appeals and communications.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate referring to the particular provision appealed from and stating fully the grounds of the appeal. Appeals, reports and all communications concerning this order should be addressed to the Tin and Antimony Section, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref. M-43.

(p) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(Second War Powers Act, 1942, 56 Stat. 177, as extended (Pub. Laws 188, 427, 80th Congress) E. O. 9841, April 23, 1947, 12 F. R. 2645; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

OFFICE OF DOMESTIC COMMERCE,

By RAYMOND S. HOOVER,
Issuance Officer.

Schedules of Permitted Uses

Under Order M-43 pig tin, secondary tin, tin plate,terne plate, solder, babbitt, copper base alloys and other materials containing tin may be used only in the production of the items and for the purposes set forth in the following schedules, subject to the limitations, restrictions and conditions specified in these schedules with respect to the various items and purposes.

SCHEDULE I—MISCELLANEOUS

(1) *Detonators and blasting caps.* Pig or secondary tin may be used to make detonators and blasting caps (including electric blasting caps) including all their necessary parts and accessories.

(2) *Collapsible tubes.* (a) Pig or secondary tin may be used to make collapsible tubes for the following purposes, if the tin content by weight of the tube is no greater than the maximum specified below:

Product	Maximum permitted tin content (percent of tin by weight)
Ointments and other preparations for ophthalmic use, sulfa drugs in ointment or jelly form, diagnostic extracts (allergens), and morphine or hypodermic injection	Unlimited
Preparations intended for introduction into the body orifices for local application, and medicinal and pharmaceutical ointments (excluding unmedicated petroleum jelly and lanolin)	Unlimited
Dental cleansing preparations	3%

Secondary tin may be used to make lead collapsible tubes for any purpose if the tin content of the tube is not greater than 0.5% by weight.

(b) No person may purchase, accept delivery of, or use collapsible tubes containing tin for packing products except those permitted above.

(3) *Foil.* Pig or secondary tin may be used to make foil for the following purposes if the tin content by weight of the foil is no greater than the maximum specified below:

Purpose	Maximum permitted tin content (percent of tin by weight)
(i) Electrotypes foil	30%
(ii) Dental foil	Unlimited
(iii) Soft babbitt for the preparation of industrial metallic packing	1½%
(iv) Condenser foil of dimensions 0.00635 inch by ¾ inch or less	50%
(v) Condenser foil for all other condensers	5%
(vi) Foil for aircraft magnetos	50%
(vii) Cap liner foil for packing medicinal, pharmaceutical, and biological preparations containing chloroform or other highly volatile chemicals for which other types of liners cannot be used	Unlimited

(4) *Dairy equipment.* Pig or secondary tin may be used to coat fluid milk shipping containers or to manufacture or relin any other dairy equipment.

(5) *Equipment for preparing and handling food.* (a) Pig or secondary tin may be used to coat or to relin any parts of kitchen utensils, galley and mess equipment and other equipment used in processing and handling of food if the parts are designed to come into actual contact with food or to plate cutlery and flatware.

(6) *Wire coating.* Pig tin or tin alloys may be prepared and used for coating wire as follows:

(a) *For copper base wire.* There is no limitation upon the tin content of the coating alloy when the copper base wire to be coated is of a size of 0.0320" nominal diameter or finer. If the wire to be coated is of a size larger than 0.0320" nominal diameter the tin content of the coating alloy is limited to 12% tin by weight.

(b) *For steel wire.* (i) To be used as armature binding wire.

(ii) To be used in the manufacture of equipment for the production of textiles.

(iii) To be used in the packaging or marking of meat where the wire comes into actual contact with the meat.

(iv) In the liquor finishing process of fine steel bright wire.

(7) *Lead base alloys for coating.* Lead base alloys containing tin for coating sheet, tubing, wire, foundry chaplets, etc., may be manufactured and used if the tin content of the alloy does not exceed 7% of tin by weight.

(8) *Printing plates and type metal.* Printing plates and type metal containing tin may be made for use by the printing, publishing and related service industries.

(9) *Dental amalgam alloys.* Pig tin may be used in the manufacture of dental amalgam alloys without restriction as to the tin content of the alloys.

(10) *Pipe organs for religious and educational institutions.* Pipe organs for religious and educational institutions may be manufactured, rebuilt, or repaired with secondary tin.

(11) *Bolster metal.* Bolster metal may be made and used in the manufacture of surgical instruments if the tin content of the bolster metal does not exceed 10% of tin by weight.

(12) *Fusible alloys and dry pipe seat rings.* Pig or secondary tin may be used in the manufacture of dry pipe valve seat rings to the extent required to meet performance specifications; and in the manufacture of fusible alloys for safety purposes only, to the extent required to meet minimum code requirements with respect to the operation of the product in which the alloy is to be contained.

(13) *Tin pipe and sheet.* (a) Pig or secondary tin may be used to make tin pipe,

sheet tin, and fittings to repair or maintain beverage dispensing units and their parts, if the consumer for whom the pipe, sheet or fittings are made returns to the supplier a quantity of scrap tin having the same tin content as that of the new pipe, sheet or fittings delivered to him.

(b) Pig or secondary tin may be used to coat copper or brass pipe and fittings for beverage or distilled water dispensing purposes.

(c) Tin pipe or tubes may be used in the manufacture of new soda fountains, food and beverage dispensing units, and where required for conducting chemically pure distilled water.

(14) *Chemicals*—(a) *General*. Pig tin or tin chemicals may be used for the following purposes: laboratory reagent; medicinal; plating (where plating is permitted by Order M-43).

(b) *Tin tetrachloride from dross, etc.* Tin tetrachloride may be produced from secondary low-grade tin-bearing drosses, residues, and scrap metal. Such material is "low-grade" only if its tin content is not over 10% and its impurity content is too high for use in the production of other items for which secondary low-grade tin-bearing materials are permitted by Order M-43. Tin tetrachloride produced from such drosses, residues, and scrap metal may be used for any purpose.

This subparagraph (b) does not apply to the production or use of tin tetrachloride produced from pig tin or from secondary tin-bearing material not "low-grade" as defined above.

(15) *Tin oxide*. Pig tin may be used to make tin oxide, but only when and to the extent that manufacturer has been specifically authorized in writing by the Office of Domestic Commerce. Tin oxide may be used for the production of chrome green, pink, yellow, and red colors, and for the production of earthenware plumbing fixtures.

(16) *Snap fasteners and hooks and eyes*. Pig or secondary tin may be used to plate snap fasteners, and hooks and eyes.

SCHEDULE II—SOLDERS

(a) *Certificates*. No manufacturer or wholesale distributor shall sell or deliver any solder to a wholesale distributor or retailer and no wholesale distributor or retailer shall purchase or accept delivery of any solder unless the purchaser has given to the seller a statement that he will not resell the solder to a user without obtaining from the user the certificate called for below. No manufacturer, wholesale distributor or retailer shall sell or deliver any solder to a user and no user shall purchase or accept delivery of any solder from a manufacturer, wholesale distributor or retailer unless the user has given to the seller a written certificate in the form set out in paragraph (j) (4) of Order M-43.

(b) *Tin content*. Pig or secondary tin may be used to make solder in accordance with the following restrictions. In the manufacture of solder, the tin content by weight shall be limited as follows, according to the purpose for which it is to be used:

Purpose	Maximum tin content of solder (percent of tin by weight)
(1) For all cellular type radiators (average per radiator).....	21%
(2) For all fin and tube type radiators for military and civilian use (average per radiator).....	32%
(3) Soldering end seams on all solder seamed cans.....	30%
(4) For a filler or smoother for automobile or truck bodies or fenders or for similar purposes.....	15%
(5) For soldering side seams in the manufacture of cans made with either lock or lap side seams or with a combination of lock or lap seams.....	5%
(6) For sealing milk cans.....	21%

Maximum tin content of solder (percent of tin by weight)

Purpose	Maximum tin content of solder (percent of tin by weight)
(7) For all soldering on the following (exclusive of any covered by (8) below) motors, generators, electrical equipment, instruments, meters, radio, radar, tanks, fire protection equipment, refrigeration equipment, dairy equipment, and food processing equipment.....	50%
(8) For all soldering on the following: railroad-car and truck refrigeration; refrigeration equipment inside refrigerated compartments; aircraft motors; electric-traction motors for railroads, street-cars, and buses.....	Unlimited
(9) For soldering aluminum.....	60%
(10) For other hand soldering operations done either with a soldering iron or with a torch and wiping.....	40%
(11) For any other soldering operations.....	35%

SCHEDULE III—BABBITT

(a) No manufacturer or wholesale distributor of babbitt shall deliver any babbitt containing more than 10% tin by weight to any wholesale distributor of babbitt and no wholesale distributor of babbitt shall accept delivery from a manufacturer or a wholesale distributor unless he shall have furnished the manufacturer or other wholesale distributor with a statement on his purchase order to the effect that he will not resell such babbitt containing more than 10% tin by weight to any user unless he has received the certificate from such user set forth below. No manufacturer of babbitt or wholesale distributor of babbitt shall deliver any babbitt containing more than 10% tin by weight to any user and no user shall accept delivery of any babbitt containing more than 10% tin by weight from any manufacturer of babbitt or wholesale distributor of babbitt unless the user shall have furnished the manufacturer or wholesale distributor with a written certificate in the form set out in paragraph (j) (4) of Order M-43.

(b) *Tin content*. Pig or secondary tin may be used to make babbitt metal, and similar alloys used as babbitt, for bearing purposes in accordance with the following restrictions. In making such product, the tin content shall be limited as follows, according to the purpose for which it is to be used:

Maximum tin content of babbitt (percent of tin by weight)

Purpose	Maximum tin content of babbitt (percent of tin by weight)
(1) For the manufacture, repair, maintenance or replacement of multivane crosshead linings in locomotives or for lining aluminum crossheads.....	Unlimited
(2) Any other bearing purpose.....	90%

Babbitt may not be used for any purpose except those listed above.

SCHEDULE IV—BRASS AND BRONZE

A. CAST ALLOYS

(a) *Tin content*. Pig or secondary tin may be used to make cast copper base alloys in accordance with the following restrictions. No person shall cast or have any person cast for him any copper base alloy containing 1.5% or more tin by weight for other than the specific purposes listed below. The tin content of any such alloy shall not be more than the amount specified for each purpose.

Purpose	Maximum tin content (percent of tin by weight)
(1) For the manufacture of high ratio worm gears, fire engine pump gears, jack nuts, feed nuts, elevating nuts, thrust washers or disks, machine tool spindle bearings, hydraulic pump bodies and ends for gear pumps, grinder spindle sleeve bearings, step bearings, internal parts of industrial centrifugal pumps and injectors, and collector rings.....	12%

Maximum tin content (percent of tin by weight)

Purpose	Maximum tin content (percent of tin by weight)
(2) For the manufacture of piston rings for locomotives and for air-brake equipment.....	20%
(3) For use as bearings and bushings.....	0%
(4) For bearings produced by process of powder metallurgy.....	10%
(5) For production of or use in tablets, markers, and memorials.....	3.5%
(6) For all other castings.....	0%

(b) *Certificate*. Any person receiving copper base alloy castings containing 1.5% or more tin shall furnish his supplier with a certificate on his purchase order stating the end use of such castings (see paragraph (j) (4) of order M-43 regarding form of certificate). All suppliers shall require such a certificate. If the end use is not permitted by M-43, and the purchaser has not received special authorization from the Office of Domestic Commerce, the supplier shall refuse the order.

B. WROUGHT ALLOYS

Pig or secondary tin may be used to make wrought alloys. However the tin content of any such alloy shall not be more than the amount required for the particular purpose.

SCHEDULE V—TIN PLATE, TERNE PLATE, AND TERNE METAL

(a) *Definitions*—(1) "Tin plate" means steel sheets coated with tin including electrolytic tin plate and hot dipped tin plate and including primes, seconds and waste-waste but not scrap.

(2) "Terne plate" means steel sheets coated with terne metal including short ternes (coated on tin mill coating machines) and long ternes (coated on sheet mill coating machines) including primes, seconds and long terne waste-waste but not scrap.

(3) "Tin plate or terne plate scrap" means any material or product made in whole or in part of tin plate or terne plate which is the waste of industrial fabrication or which has been discarded after being put into actual use, including tin plate crowns, screw caps or similar closures for various containers. The term also includes tin plate and terne plate sheets recovered from tin plate or terne plate cans or from other articles.

(4) "Reconditioned tin plate or terne plate" means damaged tin plate or terne plate which has been put into usable condition by recoating.

(5) "Terne metal" means a tin-bearing lead alloy used as a coating for plate but does not include lead recovered from secondary sources which contains not more than 3% residual tin.

(6) "Waste-waste" means hot dipped or electrolytic tin coated sheets or steel sheets coated with terne metal which have been rejected during processing by the producer because of imperfections which disqualify such sheets from sale as primes or seconds.

(b) *Manufacture of tin plate and terne plate*. Tin plate and terne plate may be manufactured for the purposes set forth below. However, coating of tin or terne metal per single base box of tin plate or terne plate must not exceed the maximum indicated below for the particular permitted use. Coating shall be determined on the basis of average spot coating tests, in the case of electrolytic plate, and on the basis of pot yield, in the case of hot dipped plate. No person may use terne metal of over 15% tin in tin mill coating machines. No person may use terne metal of over 10% tin in sheet mill coating machines.

(c) *Manufacture of terne metal*. Pig or secondary tin may be used to make terne metal.

(d) *Certificates*. No person shall sell or deliver any tin plate or terne plate to any person unless he gives with his purchase order a certificate in the form set out in paragraph (j) (4) of Order M-43.

(c) *Tin plate and terne plate* Tin plate and terne plate may be used only for the following purposes:

Permitted use	Permitted material	Maximum permitted coating of tin or of terne metal (per single base box)
1 All kitchen and cooking equipment	Electrolytic tinplate.	0.25 lb. per base box.
2 Baking pans for institutions and commercial bakers	Hot dipped tin plate.	1.25 lbs. per base box.
3 Brushes, power driven	Electrolytic tin plate.	0.50 lb. per base box.
4 Cans	Reconditioned tin plate.	1.30 lbs. per base box.
5 Closures (including crowns):	Long terne.	4 lbs. per base box.
(a) Closures for all food products (excluding malt beverages and nonalcoholic beverages) if preserved in a hermetically sealed container made sterile by heat; and olives, pickles, relishes, sauces, vinegar, French dressing, flavoring extracts, spices mustard, horseradish and cherries	Reconditioned terneplate.	
(b) Closures for meat and fish and products made from them; ice cream milk; apple sauce and juice; fruits (only crush, foin milk, cheese spread, spaghetti and macaroni products corn beef hash and sauer kraut.	As permitted by Conservation Order M-81 as amended.	
(c) Closures for biologicals; blood plasma; drug chemicals; dental supplies; eye-critics; liniments of ammonia; liniments; ointments; penicillin; prescriptions; medicinal wines; aromatic chemicals; ammonia products; deodorants, liquid or paste (not for use on human body); dyes; semiconductors; hypochlorite powder; phenols; photographic cupplines and all other liquid chemicals.	Hot dipped tin plate.	1.50 pounds per base box.
(d) Closures for home canning.	Electrolytic tin plate.	0.50 pound per base box.
(e) Closures for steel drums.		
(f) Closures for beer.		
(g) All other closures and crowns whether for domestic or export use.		
6 Carbons non-explosive emergency lights.		
7 Chandeliers, chimeplates, and tin forms for laundry use.		
8 Check valves.		
9 Component parts for Internal Combustion engines including air cleaners, cooling systems, fuel systems, and lubricating systems, but only where the essential material is impractical because of corrosion or solder ability.		
10 Cylinder liners for hard and fruit presses.		
11 Dairy ware and equipment including dairy pails, milk strainer pails, hooved milking pails, milk bottles, butter or cream cans, weigh cans, meat tures and test ware, bottle conveyors, ice cream scooters, milk filters, receiving tanks, separators, strainers, upper and lower tramps and covers for equipment, type heaters and coolers and testing equipment.		
12 Diamond cutting wheels.		
13 Dusters and sprayers, hand, for disinfectant and pest control; parts requiring solderable coatings		

Permitted use	Permitted material	Maximum permitted coating of tin or of terne metal (per single base box)
14 Equipment or appliance parts requiring solderable coatings	Short ternes.	1.30 lbs. per base box.
	Long ternes.	4 lbs. per base box.
15 (a) Fuel tanks except for automotive equipment	Reconditioned terne plate.	0.25 lb. per base box.
	Electrolytic tin plate.	1.30 lbs. per base box.
	Short ternes.	4 lbs. per base box.
(b) Fuel tanks for automotive equipment	Long ternes.	1.30 lbs. per base box.
	Reconditioned terne plate.	0 lbs. per base box.
16 Gas mask canisters.	Short ternes.	1.30 lbs. per base box.
	Long ternes.	4 lbs. per base box.
17 Gas motors.	Reconditioned terne plate.	3.30 lbs. per base box (2A charcoal).
	Hot dipped tin plate.	0.50 lb. per base box.
	Electrolytic tin plate.	1.30 lbs. per base box.
	Short ternes.	4 lbs. per base box.
18 Heat exchangers.	Reconditioned terne plate.	1.30 lbs. per base box.
	Long ternes.	4 lbs. per base box.
19 Integral parts of signal cells—but only for current collectors and baskets	Reconditioned terne plate.	1.25 lbs. per base box.
	Hot dipped tin plate.	0.50 lb. per base box.
20 Lining of drying chambers for milk and egg dehydration.	Electrolytic tin plate.	11 lbs. per base box.
21 Maple syrup evaporators	Hot dipped tin plate.	11 lbs. per base box.
22 Others (excluding cans as defined by Order M-81)	Reconditioned tin plate.	1.30 lbs. per base box.
	Short ternes.	4 lbs. per base box.
23 Oil lanterns.	Reconditioned terne plate.	1.30 lbs. per base box.
	Long ternes.	4 lbs. per base box.
24 Repair parts for domestic laundry equipment	Reconditioned terne plate.	1.25 lbs. per base box.
	Hot dipped tin plate.	0.50 lb. per base box.
25 Safety cans for inflammable liquids.	Electrolytic tin plate.	1.30 lbs. per base box.
	Short ternes.	4 lbs. per base box.
26 Textile spinning cylinders card carrens spools and bobbins.	Reconditioned terne plate.	1.25 lbs. per base box.
	Hot dipped tin plate.	0.50 lb. per base box.
27 Torpedoes for oil and gas well shooting.	Electrolytic tin plate.	1.25 lbs. per base box.
	Long ternes.	4 lbs. per base box.
28 Vaporizing liquid fire extinguishers.	Reconditioned terne plate.	1.25 lbs. per base box.
	Hot dipped tin plate.	0.50 lb. per base box.
29 Wick holders for oil stoves.	Short ternes.	1.30 lbs. per base box.
	Long ternes.	4 lbs. per base box.
30 Articles to be purchased by or for the account of the Army and Navy of the United States, the United States Maritime Commission and the Veterans' Administration.	Reconditioned terne plate.	1.30 lbs. per base box.
	Hot dipped tin plate.	0.50 lb. per base box.
	Electrolytic tin plate.	1.30 lbs. per base box.
	Short ternes.	4 lbs. per base box.

(g) *Optional use of 0.25 tin plate for terne plate* Where ternes or terne plate is permitted to be used for an item listed in paragraph (e) above, a manufacturer may substitute electrolytic tin plate with a maximum permitted tin coating of 0.25 pounds per base box for that item.

[F. R. Doe 48-4263; Filed, May 7, 1948; 4:55 p m.]

(f) *Additional permitted uses.* Any person may use electrolytic tin plate waste, waste hot dipped tin plate waste waste, terne plate waste waste, tin plate scrap, or terne plate scrap for any purpose. In addition any person may use tin plate or terne plate for any purpose (except to make items listed in paragraph (k) of order M-43) if his total annual consumption of tin plate and terne plate does not exceed 100 base boxes.

[Conservation Order M-112,¹ as Amended
May 7, 1948]

PART 338—MATERIALS ORDERS

ANTIMONY

Section 338.10 *Conservation Order M-112* (formerly § 1138.1 *General Preference Order M-112*, is amended to read as follows:

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of antimony for the national defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest, to promote the national defense, and to effectuate the policies set forth in the legislation under which this order is administered.

§ 338.10 *Conservation Order M-112.*

DEFINITIONS

(a) *Definitions.* For the purposes of this order, "antimony" means and includes the following, whether acquired domestically or by import and whether obtained from private or government sources:

(1) Ores and concentrates, including beneficiated or treated forms, containing antimony commercially recognized;

(2) Antimony metal, otherwise known as "Regulus" and the element antimony in commercially pure form;

(3) Liquefied antimony, sometimes known as "needle antimony" "crude antimony" or "Crudum" which is in any case the result of separating antimony sulphide from antimony ores by fusion, without essential chemical change;

(4) Any alloy containing 50 percent or more by weight of antimony in any of the forms listed in (a), (1) (2) and (3) above;

(5) Antimony oxide which results from the processing of any form of antimony or antimony-bearing material;

(6) Antimony sulphide (precipitate or synthetic) which results from the processing of any form of antimony or antimony-bearing material.

RESTRICTIONS

(b) *Accepting delivery.* No person shall accept delivery of antimony except in such amounts and kinds as may be specifically authorized in writing by the Office of Domestic Commerce for a particular period and subject to any use restrictions specified in the authorization. This restriction does not apply in the following cases:

(1) *Small lots.* Antimony may be accepted by any person in lots of 224 lbs. (contained antimony) or less, but the total quantity of contained antimony which any person may receive in any calendar month from all sources of supply under this subparagraph shall not exceed 224 lbs.

(2) *RFC.* Antimony may be accepted by the Office of Metals Reserve, Recon-

struction Finance Corporation, or by any agent of that corporation. (See paragraph (g) below about obtaining delivery from RFC.)

(3) *Imports.* Imported antimony may be accepted by the person making the import. Subsequent acceptances of that antimony by other persons are subject to the general restriction of paragraph (b) above.

(c) *Shipments to Canada.* No person may ship antimony to Canada unless he has received a written certificate in substantially the following form from the person to whom shipment is to be made or from his representative.

This is to certify that the antimony ordered herewith is for shipment to Canada and that the undersigned (or the person he represents) has received authorization for such shipment from the ODC covering the amount ordered, in the form ordered.

Signature

Paragraph (f) (1) below explains how authorizations for Canada may be obtained.

As an exception from the certification requirement of this paragraph (c) a person may ship antimony to any person in Canada in lots of 224 lbs. (contained antimony) or less without certification, but the total quantity of contained antimony which he may ship to such person in any calendar month without certification shall not exceed 224 lbs.

(d) *Exports to other countries.* Exports of antimony to any country other than Canada are subject to any export license requirements of the Office of International Trade, Department of Commerce.

(e) *Directions.* The ODC may from time to time direct, in writing, the manner and quantity in which antimony shall be delivered, accepted, or used. Such action may also be taken with respect to antimony-bearing lead scrap or secondary antimony-bearing lead alloys. The ODC may also require, in writing, that any person seeking to place a purchase order for antimony place it with one or more particular suppliers.

APPLICATIONS FOR AUTHORIZATION

(f) *Form ODC-2931 applications.* Applications for authorization to accept delivery of antimony shall be made on Form ODC-2931 (in triplicate) to the Office of Domestic Commerce not later than the 20th day of the month preceding the month in which delivery is requested. Failure by any person to file an application in accordance with this paragraph may be construed as notice to ODC that such person does not desire an authorization to accept antimony.

In considering applications, the ODC will take into account the following factors: the available supply of the form of antimony requested; the applicant's ability to use other forms of antimony, substitute materials, etc., and the applicant's inventory position. Applications will not be approved by ODC when it finds that the applicants can obtain and use less critical materials from secondary sources or substitute materials.

(1) *Applications from Canada.* Applicants in Canada should file Form ODC-2931 with the Priorities Officer, Department of Reconstruction and Supply, Ottawa, Canada. Where the Priorities Officer recommends approval, he will forward the applications, with his recommendations, to the Office of Domestic Commerce.

(g) *Requests for delivery from RFC.* Approval of a Form ODC-2931 application does not entitle the applicant to obtain the authorized antimony from the Reconstruction Finance Corporation. If the applicant is unable to obtain delivery from commercial sources, he may request ODC to recommend delivery from RFC. Request is to be made by letter, reporting what efforts have been made to obtain delivery from commercial sources. The ODC will not arrange for delivery from RFC unless satisfied that the antimony cannot be obtained otherwise.

REPORT

(h) *Reports on inventory, use and shipments.* A report on Form ODC-2931 (in triplicate) shall be filed in accordance with the instructions on the form by the 20th day of each month by the following:

(1) Any person who on the first day of the preceding month had in his possession or under his control 2240 pounds or more of contained antimony.

(2) Any person who used, shipped, or used and shipped during the preceding month 2240 pounds or more of contained antimony. In the case of producers, distributors, and importers, they shall list all shipments made during the report month.

This report must be filed regardless of whether or not the person wishes authorization to accept antimony during the next succeeding month.

INVENTORY

(i) *Inventory restrictions.* No person shall knowingly deliver to any person and no person shall accept delivery of any quantity of antimony, if the total inventory in the hands of the person accepting delivery is, or by virtue of acceptance will become, in excess of his reasonably anticipated requirements in the next 30 days, excepting in the case of antimony in the forms listed in paragraph (a) (1) which shall be limited to 45 days. This restriction does not apply to a producer of antimony.

MISCELLANEOUS

(j) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material subject to ODC orders and regulations and may be deprived of priorities assistance.

(k) *Appeals and communications.* Any appeal from the provisions of this

¹Formerly Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 1138.

order shall be made by filing a letter referring to the particular provision appealed from and stating fully the grounds of appeal. Appeals, reports, and all communications concerning this order shall, unless otherwise directed, be addressed to the Tin and Antimony Section, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref. M-112.

Note: The reporting provisions of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress) Executive Order 9841, April 23, 1947, 12 F. R. 2645; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

OFFICE OF DOMESTIC
COMMERCE,
By RAYMOND S. HOOVER,
Issuance Officer

[F. R. Doc. 48-4223; Filed, May 7, 1948;
10:08 a. m.]

[Conservation Order M-81,¹ as Amended May 7, 1948]

PART 338—MATERIALS ORDERS

CANS

Section 338.5 *Conservation Order M-81* (formerly § 3270.31) is amended to read as follows. Changed material is indicated by underscoring.

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of materials entering into the manufacture of cans for defense, for private account and for export, and the following order is deemed necessary and appropriate in the public interest and to promote the national defense and to effectuate the policies set out in the legislation under which this order is administered.

§ 338.5 *Conservation order M-81.*

PURPOSE

(a) *What this order does.* This order places restrictions upon cans made of tinplate or terneplate. Cans made exclusively of blackplate or tinplate waste, terneplate waste, tinplate waste-waste, or terne plate waste-waste are not restricted by this order. The order does not set quotas for can users or limit can sizes. Schedule I sets out tinplate and terneplate specifications for cans for various products, with certain exceptions set forth in paragraph (f) of the order. Schedule II sets out quota restrictions on can manufacturers' consumption of tin in making cans.

¹Formerly: Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 3270—Containers.

The provisions of Direction 10 to Order M-81 have been incorporated into this order.

DEFINITIONS

(b) *Definitions.* For the purpose of this order:

(1) "Can" means any unused container made in whole or in part of tinplate or terneplate which is suitable for packing any product. The term includes any container which has a closure or fitting, made in whole or in part of tinplate or terneplate, but does not include a glass container having such a closure or fitting. The term does not include fluid milk shipping containers.

(2) "Tinplate" means steel sheets coated with tin (including primes and seconds) and includes (i) electrolytic tinplate in which the tin coating is applied by electrolytic deposition, and (ii) hot dipped tinplate in which the tin coatings are applied by immersion in molten tin. The term does not include tinplate waste-waste or tinplate waste.

(3) "Terneplate" means steel sheets coated with terne metal (including primes and seconds). The term does not include terneplate waste-waste or terneplate waste.

(4) "SCMT" means special coated manufacturers' terneplate.

(5) "Waste" means scrap tinplate and terneplate (including strips and circles) produced in the ordinary course of manufacturing cans and tinplate and terneplate strips produced in the ordinary course of manufacturing tinplate and terneplate. The term also includes tinplate and terneplate parts recovered from used cans.

(6) "Waste-waste" means hot dipped or electrolytic tin-coated steel sheets or steel sheets coated with terne metal which have been rejected during processing by the producer because of imperfections which disqualify such sheets from sale as primes or seconds.

(7) "Blackplate" means steel sheets (other than tinplate or terneplate) 29 gauge or lighter. The term includes "blackplate rejects", chemically treated blackplate (CTB) tinplate waste-waste, terneplate waste-waste, tinplate waste and terneplate waste.

RESTRICTIONS ON CAN MANUFACTURERS

(c) *General restrictions on sale, manufacture and delivery.* No person shall sell, manufacture or deliver any cans which he knows, or has reason to believe, will be accepted or used in violation of any provision of this order. (See Schedule II for quota restrictions on manufacture)

(d) *Completion and sale of outdated cans.* Whenever can material specifications for a product are changed by an amendment to this order, a can manufacturer may continue to sell, make and deliver cans for that product in accordance with the former specifications and must not make any cans conforming to the new specifications as long as there is available to him tinplate or terneplate which was intended for use under the former specifications, and which was in process at the tin mill or in its inventory

for his account, or in his own inventory on the date of the change.

RESTRICTIONS ON CAN USERS

(e) *General restrictions on use of cans.* No person may use a tinplate or terneplate can for any purpose other than for packing the products listed in Schedule I in accordance with the material limitations set forth in that schedule. The only exceptions to this rule are set forth in paragraph (f)

(f) *Exceptions—(1) Cans permitted before an amendment.* Whenever can material specifications for a product are changed by an amendment to this order, any person may pack that product in any can which was permitted before the amendment if the can, or the tinplate or terneplate incorporated in it, was in his inventory, in the inventory of the can manufacturer, or in process or in inventory at a tin mill for the account of the can manufacturer on the date of the amendment. A packer may accept and use any outdated cans for any product produced under paragraph (d) which the can manufacturer offers to him before using any cans for that product produced under the new specifications.

(2) *Products which are not to be sold.* Cans can be used to pack any product which is not to be sold in the same or different form, but this does not permit the use of cans contrary to the other provisions of the order for the purpose of aiding or promoting the sale of a product.

(3) [Deleted May 7, 1948.]

MISCELLANEOUS PROVISIONS

(g) *Appeals.* Appeals from this order shall be filed by addressing a letter in triplicate to the Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref: M-81. The letter of appeal need not follow any particular form. It should state informally, but completely, the provision appealed from, the precise relief desired, the reasons why denial of the appeal would result in undue and excessive hardship, and such other statistical and narrative information as may be pertinent.

(h) *Communications.* All communications concerning this order shall, unless otherwise directed be addressed to: Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref: M-81.

(i) *Violations.* Any person who willfully violates any provision of this order or who, in connection with this order willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further delivery of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress), Pub.

Law 469, 80th Congress; Executive Order 9841, April 23, 1947, 12 F. R. 2645; Executive Order 9942, April 1, 1948, 13 F. R. 1823; Material Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

OFFICE OF DOMESTIC
COMMERCE,
By RAYMOND S. HOOVER,
Issuance Officer

SCHEDULE I—CAN SPECIFICATIONS

(a) Columns 2 and 3. Columns 2 and 3 specify the weights of tinplate or terneplate

which may be used, if permitted, for the soldered, welded and nonsoldered parts of cans for the products listed in Column 1: Any person may also use for packing a listed product blackplate cans or cans with a tin coating lighter than that specified for that product. Wherever 0.25 electrolytic tinplate is specified, SCMT may be used. When only a figure is given in Columns 2 or 3, this means that tinplate may be used for the part, and the figure given indicates the maximum weight of tin coating per single base box. Menders arising in the production of 0.50 electrolytic tinplate, which have been hotdipped with a maximum tin coating of 1.25 pounds per base box, may be used wherever 0.50 or

heavier tinplate is specified in these columns. Menders arising in the production of 0.25 electrolytic tinplate which have been converted into SCMT may be used wherever 0.25 or heavier tinplate is specified in this order for non-food cans. When a scored can is used to pack any of the meat products listed in this schedule, 1.25 tinplate may be used for the body of the can.

CAN SPECIFICATIONS

NOTE: The following items in the table below were amended or rearranged May 7, 1948: 18, 63, 76, 129, 133a, 139, 147, 156, 203, 208a. This included incorporating restrictions formerly in Direction 10 to Order M-81.

CAN SPECIFICATIONS

Product (1)	Soldered or welded parts (2)	Non- soldered parts (3)	Product (1)	Soldered or welded parts (2)	Non- soldered parts (3)	Product (1)	Soldered or welded parts (2)	Non- soldered parts (3)
Fruit and fruit products			Vegetables and vegetable products— Continued			Dairy products—Continued		
1. Apples, including crabapples.....	1.50	0.50	68. Mushrooms.....	1.25	0.50	127. Liquid modifications of milk.....	0.75	0.75
2. Apple butter.....	1.50	1.50	69. Okra.....	1.25	.50	128. Milk, condensed.....	.75	.75
3. Apple juice:			70. Onions.....	1.25	.50	129. Milk, evaporated:		
a. Enamelled cans.....	1.50	1.50	71. Peas, green.....	.50	.50	a. 14½-oz. or larger.....	1.25	1.25
b. Plain bodies.....	1.50	.50	72. Peas and carrots.....	1.25	.50	b. Under 14½-oz.....	.75	.75
4. Apple sauce, including sauce from crabapples.....	1.50	.50	73. Pickles.....	1.50	1.50	130. Milk, goat.....	1.25	1.25
5. Apricots.....	1.50	1.50	74. Pimientos and peppers.....	1.25	.50	131. Milk (skimmed) dry or pow- dered.....	.50	.50
6. Bananas.....	1.25	1.25	75. Potatoes, sweet.....	1.25	.50	132. Milk (whole) dry or pow- dered.....	.50	(1)
7. Berries.....	1.50	1.50	76. Potatoes, white (sticks and chips not included).....	1.25	.50	133. Meat products as follows:		
8. Cherries.....	1.50	1.50	77. Pumpkin and squash.....	1.25	.50	a. Bacon:		
9. Cherry juice.....	1.50	1.50	78. Rhubarb.....	1.50	1.50	1. 14 lb. or larger.....	1.25	1.25
10. Citrus concentrates.....	1.25	1.25	79. Rice.....	.50	.50	2. Under 14 lb.....	.50	.50
11. Citrus pulp and peel.....	1.25	1.25	80. Rutabagas.....	1.50	1.50	b. Beef, veal and mutton or pork (corned, roast or boiled):		
12. Cranberries.....	1.50	1.50	81. Sauterkraut.....	1.50	1.50	Cans with all seams soldered.....	1.25	1.25
13. Currants.....	1.50	1.50	82. Sauterkraut juice.....	1.25	.50	Cans with only side seams soldered.....	.50	.50
14. Dehydrated fruits except prunes.....	.50	.50	83. Soups.....	1.25	.50	c. Brains.....	.50	.50
15. Dehydrated prunes.....	1.25	1.25	84. Succotash.....	.50	.50	d. Chili con carne.....	.50	.50
16. Figs.....	1.50	.50	85. Tomatoes.....	1.25	1.25	e. Corned beef hash.....	.50	.50
17. Fruit cocktail.....	.50	.50	86. Tomatoes and okra.....	1.25	1.25	f. Hamburger with or without onions.....	.50	.50
18. Frozen fruits.....	1.50	.50	87. Tomato catsup.....	1.25	1.25	g. Hams, whole.....	1.25	1.25
19. Fruits, mixed and for salad.....	1.50	1.50	88. Tomato juice.....	1.25	.50	h. Ham and eggs.....	.50	.50
20. Grape juice and grape pulp.....	1.50	1.50	89. Tomato juice with other vego- table juices.....	1.25	1.25	i. Luncheon meats.....	.50	.50
21. Grapes.....	1.50	1.50	90. Tomato paste.....	1.25	1.25	j. Meat and gravy, in- cluding goulash.....	.50	.50
22. Grapefruit juice.....	1.25	1.25	91. Tomato pulp and puree.....	1.25	1.25	k. Meat loaf.....	.50	.50
23. Grapefruit, orange or mixed segments.....	1.25	1.25	92. Tomato sauce, including spa- ghetti sauce.....	1.25	1.25	l. Meat spreads.....	.50	.50
24. Jams, jellies, marmalades and preserves.....	1.50	1.50	93. Turnips.....	1.25	.50	m. Pickled pigs feet.....	1.50	1.50
25. Lemon juice.....	1.25	1.25	Fish and shellfish (processed and in hermetically sealed cans)			n. Pork and soya links.....	.50	.50
26. Lime juice.....	1.25	1.25	94. Anchovies.....	.50	.50	o. Potted meats.....	.50	.50
27. Nectars.....	1.50	.50	95. Caviar.....	.50	.50	p. Sausage, bulk.....	.50	.50
28. Olives:			96. Clams.....	.50	.50	q. Sausage in casings.....	.50	.50
a. Whole.....	1.50	1.50	97. Codfish cakes.....	.50	.50	1. Vienna sausage.....	.50	.50
b. Chopped.....	1.50	1.50	98. Crabmeat.....	.50	.50	2. Frankfurters, pork sau- sage.....	.50	.50
29. Orange juice.....	1.25	1.25	99. Crawfish.....	.50	.50	3. Sausage in oil, lard or rendered pork fat.....	.50	.50
30. Orange-grapefruit juice.....	1.25	1.25	100. Eels.....	.50	.50	r. Scrapple.....	.50	.50
31. Papayas and juice.....	1.25	1.25	101. Finnan haddie.....	.50	.50	s. Stews.....	.50	.50
32. Peaches.....	1.50	.50	102. Fish flakes.....	.50	.50	t. Tamales.....	.50	.50
33. Pears.....	1.50	.50	103. Fish, ground.....	.50	.50	u. Tongues.....	.50	.50
34. Pectin.....	1.50	1.50	104. Fish livers and fish liver oils.....	1.25	1.25	v. Tripe.....	1.25	1.25
35. Pineapple.....	1.25	1.25	105. Fish roe.....	.50	.50	Poultry and poultry products (proc- essed and in hermetically sealed cans)		
36. Pineapple juice.....	1.25	1.25	106. Herring, Atlantic Sea, includ- ing sardines:			134. Chicken and veal with noodles.....	.50	.50
37. Plums.....	1.50	1.50	a. Round cans.....	.50	.50	135. Chicken or turkey a la king.....	.50	.50
38. Prunes, dried in syrup.....	1.50	1.50	b. Oblong cans.....	1.25	.50	136. Enchiladas.....	.50	.50
39. Prunes, fresh.....	1.50	1.50	c. Oval cans.....	1.25	1.25	137. Turkey or chicken.....	.50	.50
40. Prune juice.....	1.50	1.50	107. Herring, Pacific Sea.....	.50	.50	138. Poultry spread.....	.50	.50
41. Quinces.....	1.50	1.50	108. Herring, river, including ale- wives.....	.50	.50	Miscellaneous food products		
Vegetable and vegetable products			109. Lobster.....	.50	.50	139. Animal foods.....	.25	(1)
42. Artichokes.....	1.25	.50	110. Mackerel.....	.50	.50	140. Baby foods:		
43. Asparagus.....	1.25	1.25	111. Menhaden.....	.50	.50	a. Chopped and pureed.....	1.50	1.50
44. Beans, dried:			112. Mullet.....	.50	.50	b. Chopped and pureed meats.....	1.25	1.50
a. with tomato sauce.....	1.25	.50	113. Mussels.....	.50	.50	c. Liquid milk formula.....	1.25	1.25
b. without tomato sauce.....	.50	.50	114. Oysters.....	.50	.50	d. Soybean milk, liquid.....	1.25	.50
45. Beans, green or wax.....	1.25	.50	115. Pilchards, including sardines:			e. Dry or powdered milk formula.....	.50	(1)
46. Beans, fresh shelled.....	.50	.50	a. Round cans.....	.50	.50	141. Bakery products containing more than 12% moisture.....	.50	.50
47. Beans and bamboo sprouts.....	1.25	.50	b. Oblong cans.....	1.25	1.25	142. Beer.....	.50	.50
48. Beets.....	1.25	1.25	c. Oval cans.....	1.25	1.25	143. Cereal.....	.50	.50
49. Broccoli.....	1.25	.50	116. Salmon.....	1.25	.50	144. Chop suey.....	1.25	.50
50. Brussels sprouts.....	1.25	.50	117. Shad.....	.50	.50	145. Chow mein.....	1.25	.50
51. Carrots.....	1.25	.50	118. Shrimp.....	.50	.50	146. Coconut, shredded.....	.50	.50
52. Carrot juice.....	1.25	.50	119. Shrimp, fresh cooked Alaska refrigerated.....	1.25	.50	147. Coffee (including soluble).....	(1)	(1)
53. Cabbage.....	1.25	.50	120. Squid.....	.50	.50			
54. Cauliflower.....	1.25	.50	121. Tuna.....	.50	.50			
55. Celery.....	1.25	.50	122. Turtle.....	.50	.50			
56. Celery juice.....	1.25	.50	Dairy products					
57. Chard.....	1.25	.50	123. Butter and margarine.....	.50	.50			
58. Chili sauce.....	1.25	1.25	124. Cheese.....	.50	.50			
59. Chow-chow.....	1.50	1.50	125. Cream, frozen.....	1.25	1.25			
60. Corn.....	.50	.50	126. Ice cream and ice cream mix (wet).....	.50	.50			
61. Corn on cob.....	.50	.50						
62. Dehydrated vegetables.....	.50	.25						
63. Frozen vegetables.....	.50	.50						
64. Green leafy vegetables.....	1.25	.50						
65. Hominy.....	.50	.50						
66. Lentils.....	.50	.50						
67. Mixed vegetables, fresh.....	1.25	.50						

1 No tinplate or terneplate.

CAN SPECIFICATIONS—continued

Product (1)	Soldered or welded parts (2)	Non- soldered parts (3)	Product (1)	Soldered or welded parts (2)	Non- soldered parts (3)	Product (1)	Soldered or welded parts (2)	Non- soldered parts (3)
Miscellaneous food products— Continued			Non-food products—Continued			Non-food products—Continued		
148. Eggs, frozen.....	0.50	0.50	178. Buffing compounds.....	0.25	(9)	202. Lubricating oils, including motor oil—Continued		
149. Extracts and flavorings, liq- uid.....	1.25	1.25	179. Carbon disulfide.....	.25	(9)	b. Motor oil, other sizes or types of cans.....	0.25	(9)
150. Honey.....	1.25	1.25	180. Caulking compound.....	.25	(9)	c. Other lubricating oils.....	.25	(9)
151. Lima bean loaf.....	.50	.50	181. Cements, only as follows:			203. Machine ribbons.....	.25	0.25
152. Lobster Newburg.....	.50	.50	a. Neoprene base rubber cement.....	1.25	1.25	204. Nitrocellulose.....	1.50	1.50
153. Macaroni with cheese or to- mato sauce.....	1.25	.50	b. Other synthetic rubbers, natural rubber, lin- oleum, solvent base.....	.25	.25	205. Oils, essential: distilled or cold pressed.....	1.25	1.25
154. Mayonnaise.....	1.50	1.50	c. Furnace cement.....	.25	(9)	206. Oils, transformer.....	.50	.50
155. Nut meats.....	.25	(9)	182. Chemicals, dry, only as fol- lows:			207. Ointments and salves.....	.25	.25
156. Oils liquid edible:			a. Phenols.....	1.50	1.50	208. Paints:		
a. 5-gal. or larger.....	1.25	1.25	b. Ammonium salts.....	1.25	1.25	a. Aluminum paint.....	.50	.50
b. Under 5-gal.....	.50	.50	c. Cyanide salts.....	.25	(9)	b. Copper bottom or anti- fouling.....	1.25	1.25
157. Pastes and condiments.....	1.25	.50	d. Hypochlorite powders.....	.25	.25	c. Lacquer and lacquer thinner.....	.50	.50
158. Peanut butter and other nut butters.....	.50	(9)	183. Chemicals, liquid, only as follows:			d. Paste water paints, in- cluding resin emulsion.....	.50	.50
159. Ravioli.....	1.25	.50	a. Alcohols, aldehyde and halogenated hydro- carbons.....	.50	.50	e. Pigmented oil paints.....	.25	.25
160. Shortening, vegetable and animal.....	.25	(9)	b. Chloroform.....	.50	.50	f. Varnishes, oil stain, shingle stain.....	.50	.50
161. Soda fountain fruit and other acid syrups.....	1.25	1.25	c. Bromoacetone.....	.50	.50	209. Plastic wood.....	1.25	1.25
162. Spaghetti in sauce.....	1.25	.50	d. Monochloroacetone.....	.50	.50	210. Phosphorus.....	1.25	1.25
163. Special dietary foods.....	.50	(9)	e. Acrolein.....	.50	.50	211. Polishes and waxes:		
164. Syrups, sweet:			f. Sodium silicate.....	.50	.50	a. Solvent base.....	.25	(9)
a. All seams soldered.....	1.25	1.25	184. Cleaners, only as follows:			b. Water base.....	.50	.50
b. Only side seams soldered.....	.50	.50	a. Wallpaper.....	.50	.50	212. Potassium permanganate, reagent grade.....	.50	.50
165. Syrup, chocolate.....	.50	.50	b. Window spray.....	.50	.50	213. Putty.....	.25	(9)
166. Syrup, malt.....	.50	.50	c. Radiator liquid.....	.50	.50	214. Roof cement.....	.25	(9)
167. Yeast.....	.50	.50	185. Chloroform and ether.....	1.25	1.25	215. Rust preventative.....	.25	(9)
167a. Any other food products for U. S. Army export or U. S. Navy offshore use only.....	Any	Any	186. Cresote and wood preserva- tives.....	.50	(9)	216. Saccharin.....	.50	.50
168. All other food products:			187. Deodorizers.....	1.25	1.25	217. Shells.....	(9)	(9)
a. Containing 12% or more moisture.....	.25	.25	188. Disinfectants and germicides.....	.25	.25	218. Soap:		
b. Containing less than 12% moisture.....	.25	(9)	189. Dyes.....	.50	.50	a. Liquid.....	1.25	1.25
Non-food products			190. Film boxes.....	.50	.25	b. Paste.....	.25	.25
169. Abrasives and valve grinding compounds.....	.50	(9)	191. Fire extinguisher fluid or powder.....	.25	(9)	219. Sodium and potassium metals.....	.50	.50
170. Alcohol, pharmaceutical and chemically pure.....	1.25	1.25	192. Furnace cement.....	.25	(9)	220. Sodium peroxide.....	.50	.50
171. Antifreeze.....	.25	.25	193. Gasket assembling com- pounds.....	.25	(9)	221. Soldering paste, flux.....	.25	.25
172. Aniline.....	1.25	1.25	194. Glues and adhesives.....	1.25	1.25	222. Stamp pads.....	.50	.50
173. Auto supplies, only as follows:			195. Glycerine.....	1.50	1.50	223. Turpentine.....	.50	.50
a. Radiator antirust com- pounds, liquid.....	.50	.50	196. Grain fumigant, liquid.....	.50	(9)	224. Varnish and paint removers.....	.50	.50
b. Carbon removers.....	.25	(9)	197. Graphite with liquid content.....	.25	.25	225. Welling fluxes.....	.25	(9)
c. Radiator stop-leak.....	.50	.50	198. Hydraulic brake fluid.....	.25	.25	226. Worm killer, sheep and cattle dip, sheep and horse drench roast paint, poultry reme- dies and other liquid dis- infectants:		
174. Bee feeder, cans for use in shipping bees.....	.50	(9)	199. Ink, spirit oniline and roto- grave.....	.50	.50	a. For external use.....	.25	.25
175. Benzol, toluene, naphtha, xylene.....	.25	.25	200. Ink, printing, duplicating and lithographing.....	.25	(9)	b. For internal use.....	1.25	1.25
176. Blood plasma.....	.50	.25	201. Insecticides, and fungicides (liquid).....	.25	.25	227. Any named product for U. S. Army or U. S. Navy use only.....	Any	Any
177. Boiler sealing compound.....	.25	.25	202. Lubricating oils, including motor oil: a. Motor oil, 1-qt. round refinery sealed.....	SCMT	(9)	228. Any other named products.....	.25	(9)

*No tinplate or ternplate.

*8-pound ternplate.

SCHEDULE II—QUOTA RESTRICTIONS

NOTE: Schedule II added May 7, 1948.

(a) *Scope.* This Schedule II places restrictions on can manufacturers' consumption of tin in making cans. (These restrictions were formerly contained in Direction 10 to Order M-81.)

(b) *Restrictions on over-all consumption of tin for cans.* During 1948, in making cans, no person shall use more tin in the form of tinplate coating than was contained in the tinplate he received during 1947 for making cans.

(c) *Equitable distribution of cans.* It is the policy of the Government that can manufacturers observe the following principles in distributing their production of cans:

(1) Adequate provision for the food pack.
(2) Equitable distribution among and within various groups of can users, including special consideration for small business and hardship cases and such provision as is reasonable and practical for newcomers.

(d) *Additional restrictions on making cans for certain products:*

(1) *Beer.* During 1948, in making cans for packing beer, no person shall use more tin in the form of tinplate coating than he used for that purpose during 1947.

(2) *Animal foods.* During 1948, in making cans for packing animal food, no person shall use more tin in the form of tinplate coating than whichever is the higher of the following two amounts:

(i) 75% of the amount of tin he used for this purpose during 1947; or

(ii) 75% of the amount of tin he used for this purpose during 1941, adjusted to reflect reduction of tin coating from a 1.25 lb. tinplate basis during 1941 to the 0.25-lb. tinplate basis now permitted by Conservation Order M-81.

[F. R. Doc. 48-4264; Filed, May 7, 1948; 4:55 p. m.]

[Conservation Order M-81, Direction 10, Revocation]

PART 338—MATERIALS ORDERS

SPECIAL RESTRICTIONS FOR CANS

Direction 10 to Conservation Order M-81 is hereby revoked simultaneously with a separate amendment of Conservation Order M-81 which incorporates the restrictions heretofore contained in Direction 10.

This revocation does not affect any liabilities incurred for violation of the direction or any action taken by the Office of Materials Distribution under the direction.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress), Pub.

Law 469, 80th Congress; Executive Order 9841, April 23, 1947, 12 F. R. 2645; Executive Order 9942, April 1, 1948, 13 F. R. 1823; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

OFFICE OF DOMESTIC
COMMERCE,
By RAYMOND S. HOOVER,
Issuance Officer.

[F. R. Doc. 48-4265; Filed, May 7, 1948; 4:53 p. m.]

[Conservation Order M-131, as Amended May 7, 1948]

PART 338—MATERIALS ORDERS

CINCHONA BARK AND QUINIDINE

Section 338.15 Conservation Order M-131 (formerly § 3293.131) is amended to read as follows:

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of cin-

*Formerly: Title 32—National Defense; Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce; Part 3293.

cinchona bark and quinidine for the national defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest, to promote the national defense, and to effectuate the policies set forth in the legislation under which this order is administered.

PURPOSE AND SCOPE

Par.

(a) Purpose and scope.

DEFINITIONS

(b) Definitions.

RESTRICTIONS FOR CINCHONA BARK

(c) Acceptance from RFC: use; disposition.

RESTRICTIONS FOR QUINIDINE

(d) Delivery, acceptance, use; general.

(e) Deliveries to ultimate consumers.

APPROVAL OF APPLICATIONS

(f) ODC policies for granting authorizations.

IDENTIFICATION

(g) Identification of exempt stocks.

MISCELLANEOUS PROVISIONS

(h) Inability to deliver.

(i) Appeals.

(j) Violations.

(k) Communications.

APPENDICES

A—Instructions for customer's Form ODC-2945.

B—Instructions for supplier's Form ODC-2946.

§ 338.15 *Conservation Order M-131.*

PURPOSE AND SCOPE

(a) *Purpose and scope.* The purpose of this order is to establish restrictions on the distribution and use of cinchona bark and quinidine held by, or obtained directly or indirectly from, U. S. Government agencies. The cinchona-bark restrictions are directed at providing for maximum extraction of quinidine. The quinidine restrictions are directed at making the limited supply available for cardiac treatment and providing adequate geographical distribution for that purpose.

None of the distribution or use restrictions of this order apply to privately imported stocks of cinchona bark or quinidine (i. e., stocks not held by any U. S. Government agency, not acquired from any U. S. Government agency prior to on or after July 15, 1947 (either directly or through intermediate distributors, processors, or other channels of distribution), and not made from any such materials so acquired). They also do not apply to synthetic quinidine.

DEFINITIONS

(b) *Definitions.* For the purpose of this order:

(1) "Cinchona bark" means the bark obtained from the genus *Cinchona* or from the genus *Remijia*.

(2) "Quinidine" means quinidine alkaloid obtained from cinchona bark, and its salts and derivatives.

(3) "RFC" means the Reconstruction Finance Corporation, any office of that agency, and any person acting upon behalf of such agency or office.

RESTRICTIONS FOR CINCHONA BARK

(c) *Acceptance from RFC; use; disposition.* No person may accept delivery

of cinchona bark from the RFC, or use or dispose of cinchona bark acquired by him from the RFC, except as follows:

(1) *Toll-agreement.* Under a toll-agreement with the RFC, a processor may accept cinchona bark from the RFC, process it, and return the processed products to the RFC.

(2) *Low-grade bark.* Any person may, without restriction under this order, accept, use, and dispose of cinchona bark which the RFC disposes of as unsuitable for the extraction of quinidine.

(3) *Other cases.* Special acceptance, use or disposition authorizations for cinchona bark to be obtained from the RFC may be given by the ODC in other cases where unusual circumstances are involved. Application for such authorization should be made on Form ODC-2945. (See Appendix A at the end of this order for preparation instructions.)

RESTRICTIONS FOR QUINIDINE

(d) *Delivery, acceptance, use; general.* No person may deliver, accept delivery of, or use quinidine subject to this order, except as authorized in writing by the Office of Domestic Commerce.

Application for authorization to accept or use must be made on Form ODC-2945 and should be filed by the 15th of the month before the month during which acceptance or use is desired. Application for authorization to deliver must be made on Form ODC-2946 and should be filed by the 20th day of the month before the month during which delivery is to be made. (See Appendices A and B at the end of this order for preparation instructions.)

To the extent specified below, the restrictions set out above in this paragraph do not apply in the following cases:

(1) *Certain Government agencies.* No authorization is required by the RFC, or by any Government disposal agency acting as such, to deliver quinidine which is subject to this order. (However, the person accepting delivery is subject to the restrictions of this paragraph.)

No authorization is required by the U. S. Army, Navy, or Maritime Commission to accept delivery, from commercial suppliers, of quinidine which is subject to this order or to use such quinidine. (However, the person making delivery is subject to the restrictions of this paragraph.)

(2) *Small deliveries.* No authorization is required by any person to accept delivery, during any calendar month, of up to a total of 2 ounces of quinidine which is subject to this order: *Provided*, (i) The quinidine is for resale to licensed physicians or ultimate consumers and (ii) such acceptance, taken together with such person's stock of quinidine on hand (in any form) on the delivery date, does not exceed 4 ounces of quinidine. No further authorization for delivery, acceptance, or use of the quinidine is required, but deliveries to ultimate consumers are subject to the prescription requirement of paragraph (e) below.

(3) *Toll agreements.* Where a person has an ODC authorization to use a quantity of quinidine for producing 3-grain tablets or capsules, he may have them made for him by another person under toll agreement. In such a case, no further authorization is needed for the

deliveries between the two parties in connection with that arrangement.

(e) *Deliveries to ultimate consumers.* Any person who wishes to get quinidine for consumption and not for resale must furnish the supplier with a physician's prescription, if the quinidine is subject to this order. This paragraph applies to all deliveries of such quinidine to the ultimate consumer. No person shall deliver, to an ultimate consumer, any quinidine which is subject to this order, except upon receipt of a written prescription signed by a physician licensed to prescribe drugs, which shall state either that the quinidine prescribed is to be used for the treatment of cardiac disorders or "Pursuant to Office of Domestic Commerce Order M-131." No quinidine subject to this order shall be delivered pursuant to a prescription which is written for more than fifty 3-grain tablets or capsules or for the equivalent of 150 grains of quinidine in other dosage form. No delivery of quinidine subject to this order shall be made pursuant to a prescription which is used a second time to obtain additional quantities.

APPROVAL OF APPLICATIONS

(f) *ODC policies for granting authorizations.* In general, authorizations to accept or use RFC cinchona bark for purposes other than those permitted in paragraph (c) of this section will be granted by ODC only in special cases involving unusual circumstances. In view of the supply situation, it is expected that authorizations will ordinarily not be granted for export of cinchona bark subject to this order.

In general, authorizations for quinidine will be granted by ODC only for the following purposes and in such amounts as the limited supply permits (with due regard to the individual applicant's quinidine inventory requirements and previous consumption)

(1) Production of 3-grain tablets, or 3-grain capsules, or quinidine sulphate only.

(2) Sale of quinidine (in bulk, bottled, packaged, or 3-grain tablet or capsule form) in pharmaceutical distribution channels.

(3) Sale of quinidine to Government agencies and to hospitals, for cardiac-treatment use.

(4) Sale of quinidine to ultimate consumers on prescription in accordance with paragraph (a) above.

In view of the supply situation, it is expected that authorization will ordinarily not be granted by ODC for export of quinidine subject to this order.

IDENTIFICATION PROVISIONS

(g) *Identification of exempt stocks.* As stated in paragraph (a) above, the restrictions of this order do not apply to privately-imported stocks of cinchona bark and quinidine.

In the case of cinchona bark, the question of determining whether or not particular stocks are subject to this order will ordinarily not arise because of the nature of the restrictions for that material.

However, the question may arise in the case of quinidine because of the more extensive restrictions for that material. Therefore, persons obtaining quinidine

thought to be privately imported should satisfy themselves, in some reasonable manner, that it was not acquired directly or indirectly from any U. S. Government agency. For this purpose, they may rely upon statements in package labelings or upon other written statements from suppliers regarding the source of the quinidine, unless they know or have reason to believe the statements are not true. In general, private imports of quinidine were not resumed until after July 15, 1947. Therefore, quinine obtained or packaged before that date is likely to have been acquired from government stocks.

MISCELLANEOUS PROVISIONS

(h) *Inability to deliver* If a person is specifically authorized under this order to make delivery to any specific customer or group of customers, but is unable to make the delivery either because of receipt of notice of cancellation or otherwise, he must immediately notify the ODC, and shall not deliver the material to anyone else, or use it, until he receives further instructions.

(i) *Appeals*. Appeals from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(j) *Violations*. Any person who willfully violates any provision of this order or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance.

(k) *Communications*. All applications and reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref. M-131.

NOTE: The reporting provisions of this order have been approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(Second War Powers Act, 1942, 56 Stat. 177, as amended and extended (Pub. Laws 188 and 427, 80th Congress), Executive Order 9841, April 23, 1947, 12 F. R. 2645, Materials Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

OFFICE OF DOMESTIC
COMMERCE,
By RAYMOND S. HOOVER,
Issuance Officer

APPENDIX A—INSTRUCTIONS FOR CUSTOMER'S FORM ODC-2945 APPLICATION UNDER ORDER M-131

(1) *Who should file*. The cases in which applications on Form ODC-2945 should be filed for authorization under Order M-131 are explained in that order: paragraph (c)—cinchona bark; paragraph (d)—quinidine.

(2) *Where forms may be obtained*. Copies of Form ODC-2945 may be obtained at the address stated in paragraph (3) below.

(3) *Number of copies*. Five copies shall be prepared, of which three shall be forwarded to Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref. M-131, one forwarded to the supplier with whom applicant's order is placed, and the fifth retained for applicant's file. At least one of the copies filed with the ODC shall be signed by applicant by a duly authorized official. Where the application is solely for authorization to use from inventory, no copy need be prepared for suppliers.

(4) *Special instructions for filling out form*. Observe the instructions on the form together with the instructions given below:

(a) *Heading*. Under "Unit of Measure" specify "Pounds" in the case of cinchona bark and "Ounces" in the case of quinidine.

(b) *Column 1*. If the application concerns cinchona bark, specify in Column 1 the grade or variety. If the application concerns quinidine, specify in Column 1 the form of quinidine involved; for example, quinidine alkaloid, quinidine sulfate, etc. (It is not necessary to use a separate set of applications for each form of quinidine requested.)

(c) *Column 2*. Specify the quantity (in pounds) for cinchona bark and (in ounces) for quinidine.

(d) *Column 3*. In Column 3 specify the exact name of the product or products in the manufacture or preparation of which the cinchona bark, or quinidine will be used or incorporated. Distributors ordering for resale will specify "Resale." If purchase is for inventory, specify "Inventory."

(e) *Column 4*. In Column 4 specify ultimate use to be made of the primary product, for example "cardiac," and if the purpose is to fill Army, Navy, or other government agencies' contracts, state the contract number. If the purpose is for export by the applicant to countries other than Canada, the Form ODC-2945 must first be sent to Department of Commerce, Office of International Trade, together with application for an export license. If the export license is granted, OIT will then affix the export license number to Form ODC-2945 and forward the document to ODC. (See paragraph (f) of M-131 for ODC policy regarding authorizations for export.)

(f) *Table II*. In Column 7 of Table II, list separately each form of quinidine involved (i. e., powder, tablets, etc.). In Columns 8 to 11, inclusive, report all receipts, allocations and stocks of quinidine (whether or not derived from government stocks). This Table may be left blank on the copy to be sent to the supplier and on one of the copies to be sent to ODC.

APPENDIX B—INSTRUCTIONS FOR SUPPLIER'S FORM ODC-2946 APPLICATION UNDER ORDER M-131

(1) *Who should file*. Under paragraph (d) of Order M-131, suppliers must obtain authorization on Form ODC-2946 before delivering quinidine which is subject to the order. (Some exceptions from this requirement are explained in that paragraph.) No such application is required for cinchona bark.

(2) *Where forms may be obtained*. Copies of Form ODC-2946 may be obtained at the address shown in paragraph (3) below.

(3) *Number of copies*. Four copies shall be prepared, of which three shall be forwarded to Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref. M-131, the fourth to be retained by the supplier. Each producer who has filed application on Form ODC-2945 specifying himself as his supplier, shall list his own name as customer on Form ODC-2946 and shall list his request for allocation in the manner prescribed for other customers.

(4) *Special instructions for filling out form*. Follow the instructions on the form except where they conflict with the specific instructions given below:

(a) *Heading*. In the heading under "Name of chemical", specify "Quinidine" Under

"Order No.", specify "M-131" under "Unit of measure" specify "Ounces"

(b) *Column 1*. Specify the names of customers. A producer requiring permission to use a part or all of his own production of quinidine subject to the order shall list his own name in Column 1 as customer. After completing the list of customers, insert "Total small order deliveries (estimated)" for anticipated small deliveries under paragraph (d) (2) of M-131.

(c) *Column 2*. List each form of quinidine for which orders for delivery during the applicable month have been received as indicated in the Form ODC-2945 filed with the applicant by his customers.

(d) *Column 4*. Specify total quantity to be delivered to each customer named in Column 1, and total estimated quantity to be delivered on the "Small order deliveries" mentioned in Column 1. Do not include quantities to be delivered from stocks not subject to Order M-131.

(e) *Table II*. Suppliers who produce quinidine will report all production, deliveries and stocks of quinidine (whether or not derived from government stocks) as required by Table II, Columns 8 to 16, inclusive. Suppliers who do not produce quinidine (i. e., distributors, importers) will enter in Columns 9, 11 and 14 "Receipts" instead of "Production." In Column 8 the supplier will specify each form of quinidine for which orders for delivery during the applicable month have been received, as indicated in the Form ODC-2945 filed with him by his customers.

[F. R. Doc. 49-4224; Filed, May 7, 1948; 10:03 a. m.]

[Rubber Order R-1,¹ as Amended May 7, 1948]

PART 338—MATERIALS ORDERS

RUBBER, SYNTHETIC RUBBER AND PRODUCTS THEREOF

Section 338.50 Rubber Order R-1 (formerly §§ 4600.01-4600.16) is amended to read as follows:

The following order is deemed necessary and appropriate to strengthen national security and the common defense by providing for the maintenance of an adequate domestic rubber-producing industry, and to carry out the policies of the Rubber Act of 1948, Public Law 469, 80th Congress, approved March 31, 1948.

§ 338.50 Rubber Order R-1.

DEFINITIONS

(a) *Definitions*. As used in this order:

(1) "Natural rubber" means all forms and types of tree, vine, or shrub rubber, including guayule and natural rubber latex, but excluding reclaimed natural rubber.

(2) "Synthetic rubber" means any product of chemical synthesis similar in general properties and applications to natural rubber, and specifically capable of vulcanization, produced in the United States, not including reclaimed synthetic rubber.

(i) "General-purpose synthetic rubber" means a synthetic rubber of the butadiene-styrene type (GR-S) generally suitable for use in the manufacture of transportation items such as tires or camelback, as well as any other type of

¹ Formerly designated Title 32, National Defense, Chapter IX, Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce, Part 4600, rubber, synthetic rubber and products thereof, §§ 4600.01-4600.16.

synthetic rubber equally or better suited for use in the manufacture of transportation items such as tires or camelback, as determined from time to time by the President.

(1) "Special-purpose synthetic rubber" means a synthetic rubber of the types now known as butyl (GR-I) neoprene, or N-types (butadiene-acrylonitrile types) as well as any synthetic rubber of similar or improved quality applicable to similar uses, as determined from time to time by the President.

(3) "Consume" means in the case of natural rubber or synthetic rubber, to compound, expend, formulate or in any manner make any substantial change in the form, shape or chemical composition except where any of these materials are used in the preparation of master-batches or compounds prepared for use in the manufacture of finished products.

(4) "Person" means any individual, firm, copartnership, business trust, corporation, or any organized group of persons whether incorporated or not, and any Government department, agency, officer, corporation, or instrumentality of the United States.

(5) "Now RHC" means total new rubber hydrocarbon. This is the total RHC content of natural rubber, synthetic rubber, uncured scrap rubber, uncured in-process materials, and the rubber hydrocarbon content of master-batches or compounds of new rubber.

MANUFACTURING REGULATIONS

(b) *Mandatory consumption of synthetic rubber.* No person shall manufacture any product listed in Appendix A, in any type and size listed in that Appendix, unless it conforms with the synthetic rubber specifications designated in the Appendix for that product.

(c) *Exception for experimental purposes.* Notwithstanding the provisions of paragraph (b) above, any person may use up to a total of 2,000 lbs. of natural rubber during any calendar quarter for experimentation in the manufacture of those sizes and types of tires and tubes for which specifications are provided in Appendix A.

ALLOCATION OF SYNTHETIC RUBBER

(d) *Allocation of Government-produced GR-S.* The Office of Domestic Commerce will allocate Government-produced GR-S and will notify the Office of Rubber Reserve, Reconstruction Finance Corporation, of the amounts allocated and to be sold to each person applying to the RFC for a purchase permit. Persons desiring to purchase GR-S will submit purchase requests to the Office of Rubber Reserve in accordance with the existing ORR procedure and the Office of Rubber Reserve will issue purchase permits only up to the amounts allocated by ODC per quarter.

(e) *Basis of allocation of Government-produced GR-S.* The basis for the allocation of GR-S by the Office of Domestic Commerce to any person will be his consumption of GR-S during the 4th quarter of 1947 and his minimum inventory requirements not exceeding 20 days (inventory in warehouse and in transit). Any person for whom an allocation on the above basis would not be equitable

may apply to the Office of Domestic Commerce for reconsideration of his allocation.

IMPORT RESTRICTIONS

(f) *Restrictions on importation of rubber products.* (1) For the purpose of this section, "import" means to transport in any manner from any foreign country into the continental United States or into any territory or possession of the United States. It does not include shipments into a free port, free zone or bonded custody of the United States Bureau of Customs (bonded warehouse) in the continental United States for trans-shipment to any foreign country.

(2) No person shall import any product listed in Appendix A except where:

(i) The importation of any such product is made by diplomatic representatives of any foreign government for their personal use or the use of members of their staffs, or by commercial representatives of any foreign government for use in their official business; or

(ii) The importation by any person of any such products is accompanied by a certificate to be furnished to the Collector of Customs at the port of entry, substantially as follows:

The undersigned hereby certifies, subject to the criminal penalties for misrepresentation contained in Section 35A of the United States Criminal Code, that the products covered by the invoice to which this certificate is attached, as noted therein, were manufactured in accordance with the specifications for such products, contained in Office of Domestic Commerce, Rubber Order R-1, Appendix A.

Date	Signature of Importer
REPORTS, VIOLATIONS, APPEALS AND COMMUNICATIONS	

(g) *Reports of rubber consumption and stocks.* Every person who consumed or owned at any time during any month any type of rubbers listed below in an amount in pounds equal to or in excess of the amounts specified below, shall file a monthly report on Form ODC-3410 (formerly OMD-3410) with the Office of Domestic Commerce, Department of Commerce, in accordance with the instructions accompanying the form. This report form covers consumption, stocks, receipts, production and shipments.

Types:	Amount (pounds)
Natural rubber	15,000
Natural rubber latex (dry latex solids)	5,000
Reclaimed rubber	10,000
GR-S (all types including GR-S latex)	15,000
Butyl (GR-I), all types	10,000
Neoprene (all types, including neoprene latex)	5,000
Butadiene-Acrylonitrile types	5,000

No report need be filed as to any of these types of rubbers if both rubber consumed and rubber owned were each less than the amounts specified above for the particular types of rubbers.

(h) *Other reports.* (1) Each manufacturer of tires or camelback shall file a report on his production, shipments and inventory for each calendar month on Form ODC-3438 (formerly OMD-3438) with the Office of Domestic Com-

merce, Department of Commerce, in accordance with the instructions accompanying the form.

(2) Each manufacturer of tires shall file a report of his production of cured tires for each week on Form ODC-4231 (formerly OMD-4231) with the Office of Domestic Commerce, Department of Commerce, in accordance with the instructions accompanying the form.

(3) Any person may be required to file such other reports as may be needed subject to approval by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(i) *Violations.* Any person who willfully violates any provision of this order, or who in accordance with this order willfully conceals a material fact or furnishes false information to any department or agency of the United States Government is guilty of a crime, and upon conviction may be punished by fine or imprisonment.

(j) *Appeals.* Appeals from any of the provisions of this order shall be made by filing a letter with the Rubber Division, specifying the particular provision appealed from and stating fully the grounds for the appeal.

(k) *Appeals, Reports and Communications.* All appeals, all reports to be filed under this order and all communications concerning this order shall be addressed to: Department of Commerce, Office of Domestic Commerce, Rubber Division, Washington 25, D. C., Ref. Rubber Order R-1.

(Pub. Law 469, 80th Congress; E. O. 9942, April 1, 1948, 13 F. R. 1823; Materials Control Regulation 1, as amended May 7, 1948, *supra*)

Issued this 7th day of May 1948.

OFFICE OF DOMESTIC
COMMERCE,
By RAYMOND S. HOOVER,
Issuance Officer

APPENDIX A—SYNTHETIC RUBBER SPECIFICATIONS FOR CERTAIN PRODUCTS

TIRES

(a) *Tires.* All tires, in any size and type listed below, shall contain GR-S in at least the percentage designated below.

Tire groups—size and type	Percent GR-S to total new RHO	
	Minimum group average	Minimum individual tire
1. All tires below 11.00 down to and including 8.25, except tractor, implement, industrial pneumatic and wire tires.	3.0	1.0
2. All truck 7.50 and down (including 16" and 16" diameter). All passenger and industrial 6.25 (old size), 7.10 (new size) and up.	23.0	11.0
3. All passenger, implement and industrial 6.00 (old size), 6.70 (new size) and down. All motorcycle and front farm tractor.	68.0	42.0
4. Bicycle, whitewall balloon sizes.	13.0	6.0
5. Bicycle, other balloon sizes.	65.0	40.0
6. Rear farm tractor and all other implement.	80.0	65.0

NOTE: The above Group averages for Groups 1, 2 or 3 may be reduced by not more than three (3) points, provided the aggregate GR-S consumption in these Groups equals the total amount of GR-S which would have been consumed if calculated on the above minimum group averages for Groups 1, 2 and 3.

TIRE TUBES

(b) *Tire tubes*—(1) *Minimum GR-I content*. Ninety-eight percent (98%) of the tire tubes manufactured by any person in sizes and types: old sizes 6.00, 6.25, 6.50 and new sizes 6.70, 7.10 and 7.60, of 15" and 16" diameter shall contain one hundred percent (100%) GR-I (butyl) to the total new RHC.

(2) *Exceptions*. (i) Two percent (2%) of the manufacturer's production of tubes in the above sizes may be made of any material; (ii) Airplane, double air chamber, plastic sealing, and compression safety tubes in all sizes may be made of any material.

TIRE FLAPS

(c) *Tire flaps*. All tire flaps made for tires 10.00 cross section or smaller shall each contain GR-S in an amount at least equal to 45% of the total new RHC in the flap.

CAMELBACK

(d) *Camelback*. Camelback made for tires smaller than size 8.25 with less than 5¼" crown width and 1½" gauge shall contain 100% GR-S to the total new RHC.

[F. R. Doc. 48-4217; Filed, May 7, 1948; 10:07 a. m.]

PART 372—COMPLIANCE PROCEDURE OF OFFICE OF MATERIALS DISTRIBUTION

PART 373—OFFICE OF MATERIALS DISTRIBUTION, DELEGATION OF AUTHORITY

TRANSFER OF REGULATIONS

CROSS REFERENCE: Procedural Document 2, formerly in Part 372, appears in Part 334 of this chapter as §§ 334.1-334.22; *supra*. Materials Control Reg. 2, formerly § 373.1, appears as § 329.1 of this chapter, *supra*.

TITLE 24—HOUSING CREDIT

Chapter VI—Public Housing Administration

PART 631—WAR HOUSING PROGRAM: POLICY

DISPOSITION OF FEDERALLY OWNED WAR HOUSING PROJECTS

Section 631.4 *Disposition of federally owned, war housing projects*, is hereby amended by the deletion from paragraph (a) (5) (13 F. R. 1507) of the following undesignated inferior subdivisions:

In order for the family of a living veteran to exercise a Class 1 or 1A priority (see paragraph (d) (3) of this section) both the veteran and the family must occupy a dwelling unit in the building to be sold at the time of offering and must intend to continue to occupy such unit.

In order for the family of a living veteran to exercise a Class 2 priority both the veteran and the family must intend to occupy a dwelling unit in a building to be sold at the time of offering and

must intend to continue to occupy such unit.

(54 Stat. 1125; 42 U. S. C. 1521)

JOHN TAYLOR EGAN,
Commissioner.

[F. R. Doc. 48-4186; Filed, May 10, 1948; 8:54 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Secretary of Defense

PART 1—FUNCTIONS OF THE ARMED FORCES AND THE JOINT CHIEFS OF STAFF

Sec.

1.0 Introduction.

1.1 Principles.

1.2 Common functions of the Armed Forces.

1.3 Functions of the Joint Chiefs of Staff.

1.4 Functions of the United States Army.

1.5 Functions of the United States Navy and Marine Corps.

1.6 Functions of the United States Air Force.

1.7 Glossary of Terms and Definitions.

Authority: §§ 1.0 to 1.7, inclusive, issued under sec. 202 (a), 61 Stat. 500.

§ 1.1 *Introduction*. Congress, in the National Security Act of 1947, has described the basic policy embodied in the act in the following terms:

In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide three military departments for the operation and administration of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force, with their assigned combat and service components; to provide for their authoritative coordination and unified direction under civilian control but not to merge them; to provide for the effective strategic direction of the armed forces and for their operation under unified control and for their integration into an efficient team of land, naval and air forces.

In accordance with the policy declared by Congress, and in accordance with the provisions of the National Security Act of 1947, and to provide guidance for the departments and the joint agencies of the National Military Establishment, the Secretary of Defense, by direction of the President, hereby promulgates the following statement of the functions of the Armed Forces and the Joint Chiefs of Staff.

§ 1.1 *Principles*. (a) There shall be the maximum practicable integration of the policies and procedures of the departments and agencies of the National Military Establishment. This does not imply a merging of Armed Forces, but does demand a consonance and correlation of policies and procedures throughout the National Military Establishment, in order to produce an effective, economical, harmonious and businesslike organization which will insure the military security of the United States.

(b) The functions stated herein shall be carried out in such a manner as to achieve the following:

(1) Effective strategic direction of the Armed Forces.

(2) Operation of Armed Forces under unified command, wherever such unified command is in the best interest of national security.

(3) Integration of the Armed Forces into an efficient team of land, naval, and air force.

(4) Prevention of unnecessary duplication or overlapping among the Services, by utilization of the personnel, intelligence, facilities, equipment, supplies and services of any or all Services in all cases where military effectiveness and economy of resources will thereby be increased.

(5) Coordination of Armed Forces operations to promote efficiency and economy and to prevent gaps in responsibility.

(c) It is essential that there be full utilization and exploitation of the weapons, techniques, and intrinsic capabilities of each of the Services in any military situation where this will contribute effectively to the attainment of over-all military objectives. In effecting this, collateral as well as primary functions will be assigned. It is recognized that assignment of collateral functions may establish further justification for stated force requirements, but such assignment shall not be used as the basis of establishing additional force requirements.

(d) Doctrines, procedures, and plans covering joint operations and joint exercises shall be jointly prepared. Primary responsibility for development of certain doctrines and procedures is hereinafter assigned.

(e) Technological developments, variations in the availability of manpower and natural resources, changing economic conditions, and changes in the world politico-military situation may dictate the desirability of changes in the present assignment of specific functions and responsibilities to the individual Services. This determination and the initiation of implementing action are the responsibility of the Secretary of Defense.

§ 1.2 *Common functions of the Armed Forces*—(a) *General*. As prescribed by higher authority and under the general direction of the Joint Chiefs of Staff, the armed forces shall conduct operations wherever and whenever necessary for the following purposes:

(1) To support and defend the Constitution of the United States against all enemies, foreign or domestic.

(2) To maintain, by timely and effective military action, the security of the United States, its possessions and areas vital to its interest.

(3) To uphold and advance the national policies and interests of the United States.

(4) To safeguard the internal security of the United States.

(b) *Specific*. (1) In accordance with guidance from the Joint Chiefs of Staff, to prepare forces and to establish reserves of equipment and supplies for the effective prosecution of war and to plan for the expansion of peacetime components to meet the needs of war.

(2) To maintain in readiness mobile reserve forces, properly organized, trained, and equipped for employment in emergency.

(3) To provide adequate, timely, and reliable intelligence for use within the National Military Establishment.

(4) To organize, train, and equip forces for joint operations.

(5) To conduct research, to develop tactics, technique and organization, and to develop and procure weapons, equipment, and supplies essential to the fulfillment of the functions hereinafter assigned, each Service coordinating with the others in all matters of joint concern.

(6) To develop, garrison, supply, equip, and maintain bases and other installations, to include lines of communication, and to provide administrative and logistical support of all forces and bases.

(7) To provide, as directed by proper authority, such forces, military missions, and detachments for service in foreign countries as may be required to support the national interests of the United States.

(8) As directed by proper authority, to assist in training and equipping the military forces of foreign nations.

(9) Each Service to assist the others in the accomplishment of their functions, including the provision of personnel, intelligence, training, facilities, equipment, supplies, and services as may be determined by proper authority.

(10) Each Service to support operations of the others.

(11) Each Service to coordinate operations (including administrative, logistical, training, and combat) with those of the other Services as necessary in the best interests of the United States.

(12) Each Service to determine and provide the means of communications by which command within the Service is to be exercised.

(13) To refer all matters of strategic significance to the Joint Chiefs of Staff.

§ 1.3 *Functions of the Joint Chiefs of Staff*—(a) *General.* The Joint Chiefs of Staff, consisting of the Chief of Staff, U. S. Army; the Chief of Naval Operations; the Chief of Staff, U. S. Air Force; and the Chief of Staff to the Commander-in-Chief, if there be one, are the principal military advisers to the President and to the Secretary of Defense.

(b) *Specific.* Subject to the authority and direction of the President and the Secretary of Defense, it shall be the duty of the Joint Chiefs of Staff:

(1) To prepare strategic plans and to provide for the strategic direction of the Armed Forces, to include the general direction of all combat operations.

(2) To prepare joint logistic plans and to assign to the military Services logistic responsibilities in accordance with such plans.

(3) To prepare integrated joint plans for military mobilization, and to review major material requirements and personnel qualifications and requirements of the Armed Forces in the light of strategic and logistic plans.

(4) To promulgate to the individual departments of the National Military Es-

tablishment general policies and doctrines in order to provide guidance in the preparation of their respective detailed plans.

(5) As directed by proper authority, to participate in the preparation of combined plans for military action in conjunction with the armed forces of other nations.

(6) To establish unified commands in strategic areas when such unified commands are in the interest of national security, and to authorize commanders thereof to establish such subordinate unified commands as may be necessary.

(7) To designate, as necessary, one of their members as their executive agent for:

(i) A unified command;

(ii) Certain operations, and specified commands;

(iii) The development of special tactics, technique, and equipment, except as otherwise provided herein; and

(iv) The conduct of joint training, except as otherwise provided herein.

(8) To determine what means are required for the exercise of unified command, and to assign to individual members the responsibility of providing such means.

(9) To approve policies and doctrines for:

(i) Joint operations, including joint amphibious and airborne operations, and for joint training.

(ii) Coordinating the education of members of the Armed Forces.

(10) To recommend to the Secretary of Defense the assignment of primary responsibility for any function of the Armed Forces requiring such determination.

(11) To prepare and submit to the Secretary of Defense, for his information and consideration in furnishing guidance to the Departments for preparation of their annual budgetary estimates and in coordinating these budgets, a statement of military requirements which is based upon agreed strategic considerations, joint outline war plans, and current national security commitments. This statement of requirements shall include: Tasks, priority of tasks, force requirements, and general strategic guidance concerning developments of military installations and bases, equipping and maintaining the military forces, and research and development and industrial mobilization programs.

(12) To provide United States representation on the Military Staff Committee of the United Nations, in accordance with the provisions of the Charter of the United Nations and representation on other properly authorized military staffs, boards, councils, and missions.

§ 1.4 *Functions of the United States Army.* The United States Army includes land combat and service forces and such aviation and water transport as may be organic therein. It is organized, trained, and equipped primarily for prompt and sustained combat operations on land. Of the three major Services, the Army has primary interest in all operations on land, except in those operations otherwise assigned herein.

(a) *Primary functions.* (1) To organize, train, and equip Army forces for the conduct of prompt and sustained combat operations on land. Specifically:

(i) To defeat enemy land forces.

(ii) To seize, occupy, and defend land areas.

(2) To organize, train, and equip Army antiaircraft artillery units.

(3) To organize and equip, in coordination with the other Services, and to provide Army forces for joint amphibious and air-borne operations, and to provide for the training of such forces in accordance with policies and doctrines of the Joint Chiefs of Staff.

(4) To develop, in coordination with the other Services, tactics, technique, and equipment of interest to the Army for amphibious operations and not provided for in § 1.5 (a) (4) and (11) (iii).

(5) To provide an organization capable of furnishing adequate, timely, and reliable intelligence for the Army.

(6) To provide Army forces as required for the defense of the United States against air attack, in accordance with joint doctrines and procedures approved by the Joint Chiefs of Staff.

(7) To provide forces, as directed by proper authority, for occupation of territories abroad, to include initial establishment of military government pending transfer of this responsibility to other authority.

(8) To develop, in coordination with the Navy, the Air Force, and the Marine Corps, the doctrines, procedures, and equipment employed by Army and Marine forces in air-borne operations. The Army shall have primary interest in the development of those air-borne doctrines, procedures and equipment which are of common interest to the Army and the Marine Corps.

(9) To formulate doctrines and procedures for the organization, equipping, training, and employment of forces operating on land, at division level and above, including division corps, army, and general reserve troops, except that the formulation of doctrines and procedures for the organization, equipping, training, and employment of Marine Corps units for amphibious operations shall be a function of the Department of the Navy, coordinating as required by § 1.5 (a) (11) (iii).

(10) To provide support, as directed by higher authority, for the following activities.

(i) The administration and operation of the Panama Canal.

(ii) River and harbor projects in the United States, its territories, and possessions.

(iii) Certain other civil activities prescribed by law.

(b) *Collateral functions.* The forces developed and trained to perform the primary functions set forth above shall be employed to support and supplement the other Services in carrying out their primary functions, where and whenever such participation will result in increased effectiveness and will contribute to the accomplishment of the overall military objectives. The Joint Chiefs of Staff member of the Service having primary responsibility for a function shall be the agent of the Joint Chiefs of

Staff to present to that body the requirements for and plans for the employment of all forces to carry out the function. He shall also be responsible for presenting to the Joint Chiefs of Staff for final decision any disagreement within the field of his primary responsibility which has not been resolved. This shall not be construed to prevent any members of the Joint Chiefs of Staff from presenting unilaterally any issue of disagreement with another Service. Certain specific collateral functions of the Army are listed below:

(1) To interdict enemy sea and air power and communications through operations on or from land.

(2) To provide forces and equipment for and to conduct controlled mine field operations.

§ 1.5 *Functions of the United States Navy and Marine Corps.* Within the Department of the Navy, assigned forces include the entire operating forces of the United States Navy, including naval aviation, and the United States Marine Corps. These forces are organized, trained, and equipped primarily for prompt and sustained combat operations at sea, and for air and land operations incident thereto. Of the three major Services, the Navy has primary interest in all operations at sea, except in those operations otherwise assigned herein.

(a) *Primary functions.* (1) To organize, train, and equip Navy and Marine Forces for the conduct of prompt and sustained combat operations at sea, including operations of sea-based aircraft and their land-based naval air components. Specifically:

(i) To seek out and destroy enemy naval forces and to suppress enemy sea commerce.

(ii) To gain and maintain general sea supremacy.

(iii) To control vital sea areas and to protect vital sea lines of communication.

(iv) To establish and maintain local superiority (including air) in an area of naval operations.

(v) To seize and defend advanced naval bases and to conduct such land operations as may be essential to the prosecution of a naval campaign.

(2) To conduct air operations as necessary for the accomplishment of objectives in a naval campaign.

(3) To organize and equip, in coordination with the other Services, and to provide Naval forces, including Naval close air support forces, for the conduct of joint amphibious operations, and to be responsible for the amphibious training of all forces as assigned for joint amphibious operations in accordance with the policies and doctrines of the Joint Chiefs of Staff.

(4) To develop, in coordination with the other Services, the doctrines, procedures, and equipment of naval forces for amphibious operations, and the doctrines and procedures for joint amphibious operations.

(5) To furnish adequate, timely, and reliable intelligence for the Navy and Marine Corps.

(6) To be responsible for naval reconnaissance, anti-submarine warfare, the protection of shipping, and for mine laying, including the air aspects thereof.

(7) To provide air transport essential for naval operations.

(8) To provide sea-based air defense and the sea-based means for coordinating control for defense against air attack, coordinating with the other Services in matters of joint concern.

(9) To provide naval (including naval air) forces as required for the defense of the United States against air attack, in accordance with the joint doctrines and procedures approved by the Joint Chiefs of Staff.

(10) To furnish aerial photography as necessary for naval and Marine Corps operations.

(11) To maintain the United States Marine Corps, which shall include land combat and service forces and such aviation as may be organic therein. Its specific functions are:

(i) To provide Fleet Marine Forces of combined arms, together with supporting air components, for service with the Fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. These functions do not contemplate the creation of a second land army.

(ii) To provide detachments and organizations for service on armed vessels of the Navy, and security detachments for the protection of naval property at naval stations and bases.

(iii) To develop, in coordination with the Army, the Navy, and the Air Force, the tactics, technique, and equipment employed by landing forces in amphibious operations. The Marine Corps shall have primary interest in the development of those landing force tactics, technique, and equipment which are of common interest to the Army and the Marine Corps.

(iv) To train and equip, as required, Marine Forces for airborne operations, in coordination with the Army, the Navy, and the Air Force in accordance with policies, and doctrines of the Joint Chiefs of Staff.

(v) To develop, in coordination with the Army, the Navy, and the Air Force, doctrines, procedures, and equipment of interest to the Marine Corps for airborne operations and not provided for in § 1.4 (a) (8)

(12) To provide forces, as directed by proper authority for the establishment of military government, pending transfer of this responsibility to other authority.

(b) *Collateral functions.* The forces developed and trained to perform the primary functions set forth above shall be employed to support and supplement the other Services in carrying out their primary functions, where and whenever such participation will result in increased effectiveness and will contribute to the accomplishment of the overall military objectives. The Joint Chiefs of Staff member of the Service having primary responsibility for a function shall be the agent of the Joint Chiefs of Staff to present to that body the requirements for and plans for the employment of all forces to carry out the function. He shall also be responsible for the presenting to the Joint Chiefs of Staff for final decision any disagreement within the field of his primary responsibility which has not been resolved. This shall

not be construed to prevent any member of the Joint Chiefs of Staff from presenting unilaterally any issue of disagreement with another Service. Certain specific collateral functions of the Navy and Marine Corps are listed below:

(1) To interdict enemy land and air power and communications through operations at sea.

(2) To conduct close air support for land operations.

(3) To furnish aerial photography for cartographic purposes.

(4) To be prepared to participate in the overall air effort as directed by the Joint Chiefs of Staff.

§ 1.6 *Functions of the United States Air Force.* The United States Air Force includes air combat and service forces. It is organized, trained, and equipped primarily for prompt and sustained combat operations in the air. Of the three major Services, the Air Force has primary interest in all operations in the air, except in those operations otherwise assigned herein.

(a) *Primary functions.* (1) To organize, train and equip Air Force forces for the conduct of prompt and sustained combat operations in the air. Specifically:

(i) To be responsible for defense of the United States against air attack in accordance with the policies and procedures of the Joint Chiefs of Staff.

(ii) To gain and maintain general air supremacy.

(iii) To defeat enemy air forces.

(iv) To control vital air areas.

(v) To establish local air superiority except as otherwise assigned herein.

(2) To formulate joint doctrines and procedures, in coordination with the other Services, for the defense of the United States against air attack, and to provide the Air Force units, facilities, and equipment required therefor.

(3) To be responsible for strategic air warfare.

(4) To organize and equip Air Force forces for joint amphibious and airborne operations, in coordination with the other Services, and to provide for their training in accordance with policies and doctrines of the Joint Chiefs of Staff.

(5) To furnish close combat and logistical air support to the Army, to include air lift, support, and resupply of airborne operations, aerial photography, tactical reconnaissance, and interdiction of enemy land power and communications.

(6) To provide air transport for the Armed Forces except as otherwise assigned.

(7) To provide Air Force forces for land-based air defense, coordinating with the other Services in matters of joint concern.

(8) To develop, in coordination with the other Services, doctrines, procedures, and equipment for air defense from land areas, including the continental United States.

(9) To provide an organization capable of furnishing adequate timely, and reliable intelligence for the Air Force.

(10) To furnish aerial photography for cartographic purposes.

(11) To develop, in coordination with the other Services, tactics, technique,

and equipment of interest to the Air Force for amphibious operations and not provided for in § 1.5 (a) (4) and (11) (iii)

(12) To develop, in coordination with the other Services, doctrines, procedures, and equipment employed by Air Force forces in air-borne operations.

(b) *Collateral functions.* The forces developed and trained to perform the primary functions set forth shall be employed to support and supplement the other Services in carrying out their primary functions, where and whenever such participation will result in increased effectiveness and will contribute to the accomplishment of the over-all military objectives. The Joint Chiefs of Staff member of the Service having primary responsibility for a function shall be the agent of the Joint Chiefs of Staff to present to that body the requirements for and plans for the employment of all forces to carry out the function. He shall also be responsible for presenting to the Joint Chiefs of Staff for final decision any disagreement within the field of his primary responsibility which has not been resolved. This shall not be construed to prevent any member of the Joint Chiefs of Staff from presenting unilaterally any issue of disagreement with another Service. Certain specific collateral functions of the Air Force are listed below:

(1) To interdict enemy sea power through air operations.

(2) To conduct anti-submarine warfare and to protect shipping.

(3) To conduct aerial minelaying operations.

§ 1.7 *Glossary of terms and definitions.* The usual and accepted definitions and interpretations of the English language, as contained in Webster's New International Dictionary (Unabridged) are applicable to this document, except that for purposes of clarity and to insure a common understanding of its intent, certain words and phrases are defined specifically as follows:

(a) "Air defense." All measures designed to nullify or reduce the effectiveness of the attack of hostile aircraft or guided missiles after they are airborne.

(b) "Air superiority." That degree of capability (preponderance in morale and material) of one air force over another which permits the conduct of air operations by the former at a given time and place without prohibitive interference by the opposing air force.

(c) "Air supremacy." That degree of air superiority wherein the opposing air force is incapable of effective interference.

(d) "Amphibious operation." An attack launched from the sea by naval and landing forces embarked on ships or craft involving a landing on a hostile shore. An amphibious operation includes final preparation of the objective area for the landing and operations of naval, air and ground elements in over water movements, assault, and mutual support. An amphibious operation may precede a

large-scale land operation in which case it becomes the amphibious phase of a joint amphibious operation. After the troops are landed and firmly established ashore the operation becomes a land operation.

(e) "Anti-submarine operations." Operations contributing to the conduct of anti-submarine warfare.

(f) "Anti-submarine warfare." Operations conducted against submarines, their supporting forces, and operating bases.

(g) "Base." A locality from which operations are projected or supported. May be preceded by a descriptive word such as "air" or "submarine," which indicates primary purpose.

(h) "Close air support." The attack by aircraft of hostile ground or naval targets which are so close to friendly forces as to require detailed integration of each air mission with the fire and movement of those forces.

(i) "Functions." Responsibilities, missions and tasks.

(j) "In coordination with." In consultation with. This expression means that agencies "coordinated with" shall participate actively; their concurrence shall be sought; and that if concurrence is not obtained, the disputed matter shall be referred to the next higher authority in which all participants have a voice.

(k) "Joint." As used in this paper, and generally among the Armed Forces, connotes activities, operations, organizations, etc., in which elements of more than one Service of the National Military Establishment participate.

(l) "Military." A term used in its broadest sense meaning of or pertaining to war or the affairs of war, whether Army, Navy or Air Force.

(m) "Naval campaign." An operation or a connected series of operations conducted essentially by naval forces including all surface, sub-surface, air amphibious, and Marines, for the purpose of gaining, extending, or maintaining control of the sea.

(n) "Operation." A military action, or the carrying out of a military mission, strategic, tactical, service, training, or administrative; the process of carrying on combat on land, on sea, or in the air, including movement, supply, attack, defense, and maneuvers needed to gain the objectives of any battle or campaign.

(o) "Strategic air operations." Air operations contributing to the conduct of strategic air warfare.

(p) "Strategic air warfare." Air combat and supporting operations designed to effect, through the systematic application of force to a selected series of vital targets, the progressive destruction and disintegration of the enemy's war-making capacity to a point where he no longer retains the ability or the will to wage war. Vital targets may include key manufacturing systems, sources of raw material, critical material, stock piles, power systems, transportation systems, communications facilities, concentrations of uncommitted elements of

enemy armed forces, key agricultural areas, and other such targets systems.

JAMES FORRESTAL,
Secretary of Defense.

[F. R. Doc. 48-4184; Filed, May 10, 1948; 8:45 a. m.]

Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce

PART 903—DELEGATIONS OF AUTHORITY

PART 945—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

PART 1001—TIN

PART 1138—ANTIMONY

PART 3270—CONTAINERS

PART 3293—CINCHONA BARK, QUININE AND QUINIDINE

PART 4600—RUBBER, SYNTHETIC RUBBER AND PRODUCTS THEREOF

REDESIGNATION OF ORDERS

CROSS REFERENCE: The following orders, formerly issued by the Office of Materials Distribution, appear in this issue under Title 15, Chapter III, Office of Domestic Commerce, *supra*. Section numbers of the documents as they have been codified in this chapter and their new designations are listed below:

OMD codification	Document designation	ODO codification
903.0.....	Materials Control Regulation 1.	329.1
945.1-945.20.....	Allocations Regulation 1.	330.1-330.20
945.40.....	Allocations Regulation 2.	330.40
	Direction 1.	
	Direction 2.	
	Direction 4.	
945.45.....	Allocations Regulation 3.	330.45
1001.1.....	M-43.....	339.1
1133.1.....	M-112.....	339.10
3270.31.....	M-81.....	339.5
	Direction 10.	
3293.131.....	M-131.....	339.15
4600.01-4600.16.....	R-1.....	339.59

[OMD Reg. 1, CPA Reg. 3; Revocation]

PART 903—DELEGATIONS OF AUTHORITY

Section 903.02 *Office of Materials Distribution Regulation 1* and *CPA Regulation 3* are hereby revoked. Their provisions are being incorporated into *Allocations Regulation 1* (Title 15, Chapter III, *supra*) of the Office of Domestic Commerce, Department of Commerce, with § 334.19 covering ODC official signatures and § 334.20 covering official interpretations.

Issued this 7th day of May 1948.

H. B. McCoy,
Director,
Office of Materials Distribution.

[F. R. Doc. 48-4262; Filed, May 7, 1948; 4:55 p. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 16—REGISTRY SYSTEM: INSURANCE
AND COLLECT-ON-DELIVERY SYSTEMSDECLARATION OF FULL VALUE OF REGISTERED
MAIL

In § 16.7 Receipt to be given at time matter is accepted, make the following change:

Amend paragraph (b) to read as follows:

(b) (1) The full value of all registered mail or insured mail treated as registered mail shall be declared by the mailer at the time of mailing unless otherwise prescribed by the Postmaster General, and any claim for indemnity in any amount involving such mail, when the full value knowingly and willfully was not stated at the time of mailing, shall be invalid.

(2) The following standards are furnished as a guide in determining the values to be declared on representative types of matter presented for registration:

(i) Nonnegotiable securities, or valuable papers which can be duplicated—the known or estimated cost of duplication, including the cost of an indemnity bond, if required. If the cost of duplication of nonnegotiable securities cannot be determined readily, it may be stated as six per cent of the market value.

(ii) Certificates of stock, regardless of the manner in which they are indorsed (at present being considered as non-negotiable securities which can be duplicated)—the known or estimated cost of duplication, including the cost of an indemnity bond, if required.

(iii) Checks, drafts, and other written or printed matter having no intrinsic value—the known or estimated cost of duplication, if any.

(iv) Currency—the face value.

(v) Negotiable securities—the market value on the date of mailing.

(vi) Internal revenue documentary stamps—the face value of the stamps. Internal revenue stamps, with the exception of documentary stamps, are regarded as having no intrinsic value.

(vii) Jewelry—the full value.

(Sec. 3, 45 Stat. 469, secs. 1, 3, 47 Stat. 339, 340; 39 U. S. C. 381a, 384a)

[SEAL] V. C. BURKE,
Acting Postmaster General.

[F. R. Doc. 48-4182; Filed, May 10, 1948;
8:53 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE:
POSTAGE RATES, SERVICE AVAILABLE, AND
INSTRUCTIONS FOR MAILINGPARCEL POST RATES TO MADAGASCAR AND
DEPENDENCIES

In § 127.295 *Madagascar and dependencies*, (13 F. R. 1004) make the following change:

Amend paragraph (b) (1) to read as follows:

(1) Table of rates.

[Rates include transit charges]

Pounds:	Rate	Pounds:	Rate
1-----	\$0.51	7-----	\$1.43
2-----	.65	8-----	1.77
3-----	.93	9-----	1.91
4-----	1.07	10-----	2.05
5-----	1.21	11-----	2.19
6-----	1.35		

The footnotes to the table of rates are not changed.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] V. C. BURKE,
Acting Postmaster General.

[F. R. Doc. 48-4181; Filed, May 10, 1948;
8:53 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service,
Federal Security Agency

PART 21—COMMISSIONED OFFICERS

SUBPART Q—FOREIGN SERVICE ALLOWANCES

Effective May 1, 1948, Appendix A (13 F. R. 1881) is revised to read as follows:

FOREIGN SERVICE ALLOWANCE RATES

OFFICERS

Station			Travel
Subst- ance	Quarters	Total	

Class I

None	None	None	\$7.00
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NOTE: The above allowances are applicable to all countries and places outside the continental United States not otherwise listed herein.

Class II

\$2.75	\$2.00	\$5.05	\$3.00
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Czechoslovakia. Colombia (except Bogota).

Class III

\$2.75	\$3.75	\$6.50	\$9.00
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Hungary.

Class IV

\$3.00	\$9.75	\$3.75	\$7.00
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Cuba (except Havana). Brazil (except Rio de Janeiro, Sao Paulo and Recife).
Belgium. Ecuador.
Costa Rica. Honduras.
Great Britain and Northern Ireland (except London). El Salvador.
Guatemala. Dominican Republic.
Nicaragua. Eritrea.
Chile (except Punta Arenas). Bolivia.
Paraguay. Morocco.
Peru.

Class V

\$3.00	\$1.00	\$4.00	\$7.00
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Afghanistan. Italy (except Rome).
Algeria. Liberia (except Monrovia).
Alaska. Netherlands.
Argentina. Norway.
Bermuda. Recife, Brazil.
China. Spain.
Denmark. Sweden.
Ethiopia. Tunisia.
Finland. Trieste (free city of).
France (except Paris and Orly Field). Union of South Africa.
Irish Free State. Uruguay.

FOREIGN SERVICE ALLOWANCE RATES—Con.
OFFICERS—continued

Class VI

Station			Travel
Subst- ance	Quarters	Total	
\$3.75	\$0.75	\$4.50	\$7.25

Burma (except Rangoon).

Class VII

\$3.75	\$1.00	\$4.75	\$3.00
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Portugal.

Class VIII

\$3.75	\$1.00	\$5.25	\$3.00
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Ceylon. Turkey.
Egypt (except Cairo). Philippine Islands.
Paris and Orly Field. Mexico City.
France. London.
India. Pakistan (except Karachi).
French Indo-China. Siam.

Class IX

\$3.75	\$2.00	\$5.75	\$9.00
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Switzerland.

Bogota, Colombia.

Class X

\$3.75	\$3.00	\$6.75	\$10.00
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Cairo, Egypt.

Class XI

\$3.75	\$4.00	\$7.75	\$11.00
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Bulgaria.

Netherlands, East Indies.

Class XII

\$4.00	\$1.00	\$5.00	\$9.00
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Havana, Cuba.

Monrovia, Liberia.

Class XIII

\$5.25	\$1.75	\$7.00	\$10.00
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Iraq.

Palestine.

Trans-Jordan.

Rome, Italy.

Class XIV

\$5.00	\$1.00	\$7.00	\$10.00
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Republic of Lebanon. Turkey.
Rangoon, Burma. Malayan Union.
Singapore. Karachi, Pakistan.

Class XV

\$7.00	\$3.00	\$11.00	\$15.00
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Union of Soviet Socialist Republics.

Class XVI

\$5.00	\$3.00	\$9.00	\$12.00
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Iceland.

Rumania.

Yugoslavia.

Class XVII

None	\$1.75	\$1.75	\$7.00
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Australia.

RULES AND REGULATIONS

FOREIGN SERVICE ALLOWANCE RATES—Con.
OFFICERS—continued
Special Classification

Station			Travel
Subsistence	Quarters	Total	
\$8.25	\$3.75	\$12.00	\$12.00
Greece (personnel not in receipt of diplomatic exchange rate).			
NOTE: Greece (personnel in receipt of diplomatic exchange rate, allowance prescribed in class I applicable).			
\$5.25	\$3.75	\$9.00	\$9.00
Punta Arenas, Chile.			
\$0.75	\$3.25	\$10.00	\$11.00
Poland (personnel not in receipt of diplomatic exchange rate).			
NOTE: Poland (personnel in receipt of diplomatic exchange rate, allowances prescribed in Class I applicable).			
\$3.75	\$3.25	\$7.00	\$7.00
Bahrein Island, Persian Gulf.			
\$3.75	\$4.75	\$8.50	\$8.50
Rio de Janeiro, Brazil. Sao Paulo, Brazil.			
\$0.75	\$5.25	\$12.00	\$15.00

Venezuela.

Dated: April 28, 1948.

[SEAL] LEONARD A. SCHEELE,
Surgeon General.

Approved: MAY 6, 1948.

OSCAR R. EWING,
Federal Security Administrator[F. R. Doc. 48-4195; Filed, May 10, 1948;
8:48 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders
[Public Land Order 473]

NEW MEXICO

MODIFICATION OF EXECUTIVE ORDER 9029 OF JANUARY 20, 1942, AS AMENDED, PUBLIC LAND ORDER 7 OF JUNE 29, 1942, AS AMENDED, AND PUBLIC LAND ORDER 173 OF SEPTEMBER 27, 1943, WITHDRAWING PUBLIC LANDS FOR USE OF WAR DEPARTMENT

By virtue of the authority vested in the President, and pursuant to Executive Order No. 9337 of April 24, 1943, and section 1 of the act of June 28, 1934, as amended, 48 Stat. 1269 (43 U. S. C. 315) it is ordered as follows:

(1) Executive Order No. 9029 of January 20, 1942, as amended by Executive Order 9526 of February 28, 1945, and by Public Land Order No. 358 of March 17, 1947, (2) Public Land Order No. 7 of June 29, 1942, as amended by Executive Order 9526 of February 28, 1945, and (3) Public Land Order No. 173 of September 27, 1943, withdrawing public

lands for use of the War Department, as a general bombing range, an air base, and for the construction of a sewage disposal plant, respectively, are hereby modified so as to permit the use of the lands for grazing purposes under the provisions of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976 (43 U. S. C. 315 et seq.) at such times and in such manner as may be agreed upon by the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Interior.

MASTIN G. WHITE,
Acting Assistant Secretary
of the Interior

APRIL 30, 1948.

[F. R. Doc. 48-4176; Filed, May 10, 1948;
8:52 a. m.]

[Public Land Order 474]

CALIFORNIA

WITHDRAWING PUBLIC LAND FOR USE OF DEPARTMENT OF ARMY

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public land is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for the use of the Department of the Army for harbor improvement purposes as authorized by the River and Harbor Act of March 2, 1945 (59 Stat. 10-21)

HUMBOLDT MERIDIAN

T. 16 N., R. 1 W.

Round Rock Island, an unsurveyed island off the coast of California, containing approximately 0.3 of an acre.

This order shall take precedence over but not modify Executive Order No. 5326 of April 14, 1930 so far as that order affects the above-described land.

It is intended that the land described herein shall be returned to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

MASTIN G. WHITE,
Acting Assistant Secretary
of the Interior

APRIL 30, 1948.

[F. R. Doc. 48-4177; Filed, May 10, 1948;
8:52 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 56]

DRESSED POULTRY AND DRESSED DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO INSPECTION AND CERTIFICATION FOR CONDITION AND WHOLESOMENESS

Notice is hereby given that the Assistant Administrator, Production and Marketing Administration, is considering the amendment, as hereinafter proposed, of the Instruction on sanitary requirements and requirements for equipment and facilities governing plants operating as official plants processing and packaging dressed poultry and edible products thereof (12 F. R. 3802) pursuant to the revised rules and regulations governing the inspection and certification of dressed poultry and dressed domestic rabbits and edible products thereof for condition and wholesomeness (7 CFR and Supps. 56.1 et seq., 13 F. R. 1). Not all of the paragraphs and subparagraphs are being changed, but paragraphs (c) to (i) inclusive, are being published in the proposed amended form, in their entirety, for the purpose of clarification.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed instructions shall file the same in quadruplicate with the Hearing Clerk, Room 1844, South Building, United

States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 15th day after the publication of this notice in the FEDERAL REGISTER.

The proposals are:

1. Delete the heading of § 56.101 and substitute therefor the following: "Instructions on sanitary requirements and requirements for equipment and facilities governing plants operating as official plants processing and packaging dressed poultry and dressed domestic rabbits and edible products thereof."

2. Delete paragraphs (c) to (i), inclusive, of § 56.101 (12 F. R. 3802) and substitute therefor the following:

(c) Drawings and specifications to be furnished in advance of construction. (1) Copies of drawings, consisting of floor plans of space to be included in the official plant showing the location of such features as the principal pieces of equipment, floor drains, and the routes of edible and inedible products to and from the eviscerating department, shall be submitted to the regional supervisor before an application for inspection is approved.

(2) The drawings should be prepared to scale, preferably 1/4 inch a foot, and should show toilet and dressing rooms, store rooms, inspector's office, inedible product departments, rooms where edible products will be handled or kept, and any other rooms or compartments which will be included in the official plant. If rooms or compartments shown on the drawings are not to be included as a part of the official plant, this shall be clearly indicated thereon. Approval of the drawings

should be obtained from the regional supervisor in advance of construction or remodeling.

(3) Specifications covering the height of the ceilings, character of the floors, walls and ceilings, lighting and such other notations as the regional supervisor may require shall accompany the drawings.

(d) *Final survey.* Prior to the inauguration of inspection, a final survey of the plant and premises shall be made by the regional supervisor, of his assistant, to determine if the building has been constructed and facilities have been installed in accordance with the approved drawings and with the sanitary requirements contained in the instructions in this section. Sanitary requirements not specifically covered by the instructions in this section shall be left to the national supervisor or his assistant.

(e) *Separation of official plants from other plants.* No connecting doorways, windows, stairways, elevators, or passageways shall be permitted between an official plant and any other plant or other part of a building where eviscerated or partially eviscerated poultry or domestic rabbits, or products thereof are handled or kept unless otherwise provided or approved by the national supervisor.

(f) *Sanitary requirements.* Each official plant shall be maintained in sanitary condition, and to this end the requirements of subparagraphs (1) to (7) inclusive, of this paragraph shall be met.

(1) There shall be abundant light, either natural or artificial, or both, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(2) There shall be an efficient drainage and plumbing system for the plant and premises, and all drains and gutters shall be properly installed with approved traps and vents.

(3) The water supply shall be ample, clean and potable, with adequate facilities for its distribution in the plant and its protection against contamination and pollution. Every official plant shall make known, and whenever required shall afford opportunity for inspection of, the source of its water supply, the storage facilities, and the distribution system.

(4) The floors, walls, ceilings, partitions, posts, doors and other parts of all structures shall be of such materials, construction and finish as will make them susceptible of being readily and thoroughly cleaned. The floors shall be kept watertight. The rooms and compartments used for edible products shall be separate and distinct from those used for inedible products, and from rooms where poultry is slaughtered and plucked, or where rabbits are slaughtered and skinned. However, passageways or elevators which are used for edible products may also be used for the movement, in suitable containers, of inedible products from the official plant. When such inedible products are taken from an inedible product department, they shall be removed from the official plant without delay.

(5) The rooms and compartments in which any edible product is prepared or handled shall be free from dust and from

odors from dressing and toilet rooms, catchbasins, inedible tank and fertilizer rooms, and from any rooms or places in the vicinity of the official plant.

(6) Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from official plants. The use of poisons for any purpose in rooms or compartments where unpacked product is stored or handled is forbidden except under such restrictions and precautions as the national supervisor may prescribe. The use of bait poisons in inedible compartments, outbuildings, or similar places, or in storerooms containing canned or tierced products is not forbidden but only those approved by the national supervisor may be used. So-called rat viruses shall not be used in any part of an official plant or the premises thereof. Equipment or substances which generate gases or odors shall not be used except as specifically permitted by the national supervisor.

(7) Dogs and cats shall be excluded from official plants.

(g) *Facilities and accommodations.* The following minimum sanitary facilities and accommodations shall be furnished by every official plant:

(1) Dressing rooms, toilet rooms, and urinals shall be sufficient in number, ample in size, and conveniently located. They shall be properly ventilated and meet all requirements as to sanitary construction and equipment. They shall be separate from the rooms and compartments in which products are prepared, stored, or handled.

(2) Modern lavatory accommodations, including running hot and cold water, soap and towels. These shall be placed in or near toilet and urinal rooms and also at such other places in the establishment as may be essential to assure cleanliness of all persons handling product.

(3) Toilet soil lines shall be separate from house drainage lines to a point outside the buildings; and drainage from toilet bowls and urinals shall not be discharged into a grease catchbasin.

(4) Properly located facilities for cleansing and disinfecting utensils and hands of all persons handling any product.

(h) *Inspector's office.* Furnished office room, including light, heat, and janitor service, shall be provided by official plants, rent free, for the exclusive use for official purposes of the inspector and other division employees assigned thereto. The room or rooms set apart for this purpose shall meet with the approval of the regional supervisor and shall be conveniently located, properly ventilated, and provided with lockers suitable for the protection and storage of supplies and with facilities suitable for inspectors to change clothing.

(i) *Equipment and utensils.* (1) Equipment and utensils used for preparing, processing, or otherwise handling any product in an official plant shall be of such materials and construction as will make them susceptible of being readily and thoroughly cleaned and such as will insure strict cleanliness in the preparation and handling of all products. So far as is practicable, such equipment shall be made of metal or other impervi-

ous material. Trucks and receptacles used for inedible products shall be of similar construction and shall bear some conspicuous and distinctive mark, and shall not be used for handling edible products.

(2) Equipment and utensils used in an official plant may not be used outside the official plant, excepting under such conditions as may be prescribed or approved by the national supervisor.

(3) Tables, and other equipment on which inspection is performed, shall be of such design, material and construction as to enable inspectors to conduct their inspection in a ready, efficient and cleanly manner.

(4) Official plants shall provide watertight trucks or receptacles for holding and handling diseased carcasses and parts, so constructed as to be readily cleaned; such trucks or receptacles to be marked in a conspicuous manner with the words "U. S. condemned" in letters not less than 2 inches high and, when required by the regional supervisor, to be equipped with facilities for locking or sealing.

(5) Official plants shall provide suitable lockers in which brands and stamps bearing the inspection legend shall be kept when not in use. All such lockers shall be equipped with locks, the keys of which shall not leave the custody of the inspector in charge of the plant.

3. Delete the heading of paragraph (j) of § 56.101 and substitute therefor the following: "*Operations and procedures in an official plant.*"

(Pub. Law 266, 80th Cong., 1st Sess., approved July 30, 1947)

Issued at Washington, D. C., this 5th day of May 1948.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator.

[F. R. Doc. 48-4187; Filed, May 10, 1948; 8:54 a. m.]

17 CFR, Part 9821

[Docket AO-183]

HANDLING OF PEACHES GROWN IN NORTH AND SOUTH CAROLINA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the rules of practice and procedure governing proceedings to formulate marketing agreements and orders, as amended (7 CFR and Supps., 900.1 et seq., 11 F. R. 7737; 12 F. R. 1159, 4904) a public hearing was held in Spartanburg, South Carolina on January 5-6, 1948, and at Rockingham, North Carolina on January 8-9, 1948, pursuant to notice thereof published in the FEDERAL REGISTER on December 20, 1948 (12 F. R. 8681) upon a proposed marketing agreement and proposed marketing order for regulating the handling of peaches grown in North Carolina and South Carolina.

Upon the basis of the evidence introduced at the aforesaid hearing and the record thereof, the Acting Assistant Ad-

ministrator, Production and Marketing Administration, on April 15, 1948, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. Notice of such decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on April 20, 1948 (13 F. R. 2093).

No exceptions to the aforesaid recommended decision of the Acting Assistant Administrator of the Production and Marketing Administration have been filed.

The material issues and the findings and conclusions of the aforesaid recommended decision, as set forth in the FEDERAL REGISTER (F. R. Doc. 48-3477, 13 F. R. 2093) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Peaches Grown in North and South Carolina" and "Order Regulating the Handling of Peaches Grown in North and South Carolina" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. The aforesaid marketing agreement and order shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said agreement are identical with those contained in the attached order, which will be published with this decision.

Done at Washington, D. C., this 5th day of May 1948.

[SEAL] N. E. DODD,
Acting Secretary of Agriculture.

Order¹ Regulating the Handling of Peaches Grown in North and South Carolina

§ 982.0 Findings and determinations—

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Supps., 900.1 et seq., 11 F. R. 7737, 12 F. R. 1159, 4904) a public hearing was held at Spartanburg, South Carolina on January 5-6, 1948, and at Rockingham, North Carolina on January 8-9, 1948, upon a proposed marketing agreement and a proposed marketing order regulating the handling of peaches grown in the North and South

Carolina production area. Upon the basis of evidence introduced at such hearing, and the record thereof, it is found that:

(1) The terms and provisions of this order prescribe, so far as practicable, such different terms, applicable to different production areas, as are necessary in order to give due recognition to the difference in production and marketing of such peaches;

(2) This order is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to any subdivision of said production area specified herein would not effectively carry out the declared policy of the act; and

(3) This order and all of the terms and conditions of this order will tend to effectuate the declared policy of the act with respect to peaches produced in said production area, specified in this order, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish prices to the producers thereof at a level that will give such peaches a purchasing power, with respect to the articles that the producers thereof buy, equivalent to the purchasing power of such peaches in the base period, August 1919-July 1929, and by protecting the interest of the consumer by (1) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (2) by authorizing no action which has for its purpose the maintenance of prices to producers of such peaches above the level which it is declared in the act to be the policy of Congress to establish, and (3) by establishing and maintaining such minimum standards of quality and such grading and inspection requirements for peaches in interstate commerce as will effectuate such orderly marketing of such peaches as will be in the public interest.

(b) *Additional findings.* (1) The purchasing power during the base period specified for peaches in the aforesaid act cannot be satisfactorily determined from available statistics of the Department of Agriculture, but can be determined from available statistics of such Department for the period, August 1919-July 1929, which is hereby proclaimed pursuant to section 608e of said act.

Order relative to handling. It is hereby ordered, pursuant to the findings and determinations set forth in § 982.0 hereof and pursuant to the aforesaid act, that such handling of peaches produced in the States of North Carolina and South Carolina, as is in the current of interstate commerce from the production area to a point or points outside thereof, shall, from, and after the time hereinafter specified, be in conformity to and in compliance with the terms and conditions of this order.

§ 982.1 Definitions. As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other officer or member of the United States Department of Agriculture who is or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended. (7 U. S. C. 601 et seq.)

(c) "Person" means an individual, marketing agent, partnership, corporation, marketing agency, association, legal representative, or any organized group or business unit of individuals.

(d) "Production area" means the States of South Carolina and North Carolina.

(e) "Peaches" means all varieties of peaches grown within the production area.

(f) "Shipper" is synonymous with "handler" and means any person (except a common or contract carrier of peaches owned by another person) who, as owner, agent, or otherwise, ships or handles peaches in fresh form, or causes peaches to be shipped or handled in fresh form, by rail, truck, boat, or any means whatsoever.

(g) "Ship" is synonymous with "handle" and means to sell, transport, or in any other way to place peaches in the current of interstate commerce from the production area to a point outside the production area.

(h) "Grower" means any person engaged in the production of peaches for market and includes all persons having share interest in such production. As used in § 982.6 (c) "grower" also means the purchaser of a crop of peaches on the trees.

(i) "Fiscal period" means the period beginning on March 1 of each year and ending on the last day of February of the following year.

(j) "Grade" means any one of the officially established grades of peaches as defined and set forth in the U. S. Standards for Peaches, issued by the United States Department of Agriculture April 22, 1933, as reissued (12 F. R. 3798), or modifications thereof, or variations based thereon.

(k) "Size" means the diameter of peaches as determined and set forth in the aforesaid U. S. Standards for Peaches, or modifications thereof, or variations based thereon.

(l) "Maturity" means that stage of growth in peaches defined and set forth in the requirements for maturity specified in the aforesaid U. S. Standards for Peaches or modifications thereof, or variations based thereon.

(m) "District" means, describes, and refers to each of the divisions of the production area hereby established as follows:

(1) "Ridge District," which shall include the Counties of Edgefield, Saluda, Aiken, Lexington, Barnwell, Orangeburg, Calhoun, Allendale, Bamberg, Hampton, Colleton, Dorchester, Berkeley, Jasper, Beaufort, and Charleston in South Carolina.

(2) "Sand Hills S. C. District," which shall include the Counties of Richland,

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Kershaw, Chesterfield, Marlboro, Sumter, Lee, Darlington, Clarendon, Florence, Dillon, Williamsburg, Marion, Georgetown, and Horry in South Carolina.

(3) "Sand Hills N. C. District," which shall include those counties in North Carolina east of a line drawn along the western borders of Rockingham, Guilford, Randolph, Montgomery, and Anson Counties.

(4) "Piedmont S. C. District" which shall include the Counties of Oconee, Pickens, Anderson, Greenville, Abbeville, Laurens, Spartanburg, McCormick, Greenwood, Newberry, Union, Cherokee, Fairfield, Chester, York, and Lancaster in South Carolina.

(5) "Piedmont N. C. District", which shall include those counties in North Carolina west of a line drawn along the western borders of Rockingham, Guilford, Randolph, Montgomery and Anson Counties.

§ 982.2 *Administration*—(a) *Establishment of Growers' Administrative Committee.* A Growers' Administrative Committee (hereinafter called the "Committee") consisting of fourteen members is hereby established to administer the terms and provisions hereof. There shall be an alternate member for each member of the Committee, and all provisions hereof with respect to members of the Committee shall likewise apply to such alternate members unless otherwise stated.

(b) *Representation on Committee.* Members of the Committee shall be selected from among the respective growers on the following basis: Four members in the Piedmont S. C. District; two members in the Piedmont N. C. District; four members in the Sand Hills N. C. District; two members in the Sand Hills S. C. District; and two members in the Ridge District.

(c) *Selection of initial members.* The initial members of the Committee shall be selected by the Secretary as soon as reasonably possible after the effective date hereof. Each of the initial members shall serve for a term ending on February 28, 1949, or until his successor has been selected and has qualified.

(d) *Selection of succeeding members.* (1) Prior to December 31 of each year, the Committee shall make arrangements for a meeting of growers in each district for the purpose of electing nominees from among whom the Secretary may select members of the Committee. The Committee shall give adequate notice of each such meeting to growers eligible to participate at the respective meetings. In the event the Committee fails to arrange for such meetings by the date specified herein, the Secretary may make arrangements for the meetings, or he may select successor members of the Committee without recourse to nominations.

(2) At each election meeting held to nominate members of the Committee, the growers eligible to participate therein shall select a chairman and a secretary therefor. The chairman of each meeting shall announce at such meeting the name of each person for whom a vote has been cast, whether as member or alternate member, and the number of votes

cast for each such person, and the chairman or the secretary of the meeting shall forthwith transmit such information to the Secretary. At each such meeting, at least one nominee shall be elected for each member and at least one nominee shall be elected for each alternate member of the Committee to be selected to represent the respective district in accordance with § 982.2 (b) hereof. Each grower shall be entitled to cast only one vote on behalf of himself, his agents, affiliates, subsidiaries, and representatives for each position on the Committee for which such voter is eligible to participate in electing nominees at the meeting.

(3) The Committee may prescribe, with the approval of the Secretary, additional rules and regulations, not inconsistent with the provisions hereof, relative to the election of nominees for members of the Committee, including provision for such election by mail if, where, and whenever deemed advisable.

(4) The Secretary may select the members of the Committee and their respective alternates, subsequent to the initial members, from nominations made by growers, as aforesaid, or from among other growers.

(e) *Eligibility for membership.* Each person nominated or selected to serve as a member of the Committee shall be an individual grower of peaches in the respective district from which he was nominated or selected, or an officer, employee, or agent of a grower in such district.

(f) *Vacancies.* In the event nominations for membership on the Committee are not submitted to the Secretary, pursuant to the provisions of this section, by February 15 of the respective fiscal period, the Secretary may select such members without waiting for nominees to be so submitted. To fill any vacancy occasioned by the failure of any person, selected as a member of the Committee, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member, a successor for his unexpired term may be selected by the Secretary.

(g) *Qualification.* Each person selected as a member of the Committee shall promptly qualify by filing with the Secretary, within fifteen (15) days of notification thereof, a written acceptance of appointment.

(h) *Alternate members.* Each alternate member of the Committee shall have the same qualifications and shall be selected in the same manner as the respective member for whom such individual is to serve as alternate. The alternate for a member of the Committee shall, in the event of the respective member's absence, act in the place of said member; and, in the event of such member's removal, resignation, disqualification, or death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected and has qualified, act in the place of said member.

(i) *Term of office.* The term of office of succeeding members of the Committee shall be the fiscal period for which they have been selected and have qualified, and until their respective successors shall have been selected and have qualified.

(j) *Compensation.* Members of the Committee, and alternate members when acting for members or when designated by the Committee to attend, may receive compensation in an amount not in excess of five dollars (\$5.00) per day for attendance at each meeting of the Committee, or at each consultation or conference with any other committee, or representative thereof, established under a marketing agreement and order program with respect to the handling of peaches, or while attending to such business as may be authorized by the Committee. In addition to said per diem, the members of the Committee, and alternates when acting for members, or when designated by the Committee to attend, may be reimbursed for all expenses necessarily incurred in attending such conference or consultation, or while attending to such Committee business.

(k) *Powers.* The Committee shall have the following powers:

(1) To administer, as herein specifically provided, the terms and provisions hereof;

(2) To make, in accordance with the provisions herein contained, administrative rules and regulations;

(3) To receive, investigate, and report to the Secretary complaints of violation hereof; and

(4) To recommend to the Secretary amendments hereto.

(l) *Duties.* The Committee shall have the following duties:

(1) To act as intermediary between the Secretary and any grower or handler;

(2) (i) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall at all times be subject to examination by the Secretary; (ii) to maintain books of account and to cause such books to be audited by one or more competent accountants at least once each fiscal period, and at such other times as it deems necessary, or as the Secretary may request, and to file with the Secretary a copy of each such audit report; (iii) to prepare from time to time statements of the financial operations of the Committee and to make such statements, together with the minutes of the meetings of the Committee, available at the office of the Committee for inspection by any grower or handler; and (iv) to submit to the Secretary, prior to May 1 of each fiscal period, a budget of its expenses and a proposed rate of assessment for the then current fiscal period.

(3) To furnish the Secretary such available information as he may request;

(4) To consult with any other committee, established under any marketing agreement or order program pursuant to the act, with respect to the handling of peaches grown in any State or region outside of the area;

(5) To select a chairman of the Committee and such other officers and employees as it may deem advisable;

(6) To redefine the districts, or change the representation on the Committee from any district, all of which shall be subject to the provisions of paragraph (m) of this section and to the approval of the Secretary;

(7) To determine the marketing policy to be followed during the ensuing season and to submit a report of such policy to the Secretary, as required by § 982.4 (a) prior to making any recommendation for the regulation of shipments pursuant to §§ 982.5 or 982.6;

(8) To give to the Distributors' Advisory Council and to the Secretary the same notice of meetings of the Committee as is given to the members thereof;

(9) To supervise the regulation of shipments pursuant hereto;

(10) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to peaches, and to engage in such research and service activities in connection with the handling of peaches as may be approved, from time to time, by the Secretary.

(m) *Procedure.* (1) The Committee may, upon the selection and qualification of a majority of its members, organize and commence to function. A quorum shall consist of nine members: *Provided*, That at least two shall be from the Piedmont, S. C. District, at least two shall be from the Sand Hills, N. C. District, and at least one each shall be from each of the other three districts. For any regulatory decision of the Committee to be valid, or to carry out the duties specified in subparagraph (6) of paragraph (1) of this section, not less than eight concurring votes shall be necessary. *Provided*, That the said number of concurring votes shall be distributed among the respective districts in the same minimum numbers as required herein for a quorum. The requirements with respect to a quorum of the Committee and the number of concurring votes to make a decision of the Committee valid may be changed by the Committee with the approval of the Secretary.

(2) The Committee may provide for the members thereof to vote by mail or in any other manner: *Provided*, That no member may vote other than in person at an assembled meeting of the Committee. Voting other than in person shall be confirmed promptly in writing by the respective members so voting.

(3) The Committee may adopt such rules, not inconsistent with the provisions hereof, relative to the method of conducting its business as it may deem advisable.

(n) *Distributors' Advisory Council.* (1) A Distributors' Advisory Council (hereinafter called the "Council") consisting of nine members, designated from among the handlers in accordance with the provisions hereof, is hereby established. The purpose of such Council is to act as an advisory body to the Committee. The duties of the Council shall consist of submitting recommendations to the Committee with respect to whatever regulations or quality standards may be deemed advisable, either initially, or when such regulations or standards have been proposed for consideration by the Committee or by the Secretary. Advisory Councilmen shall hold office for a one-year term corresponding to the fiscal period.

(2) Three members of the Council shall be the three handlers who, during the marketing season immediately preceding their term of office, separately

shipped more peaches from the production area than were shipped separately by any other handler during the same period. Three of the remaining six members of the Council shall be composed of the three handlers (exclusive of the three handlers mentioned above) who separately shipped the largest volume of peaches from South Carolina, during the marketing season immediately preceding their term of office. The three remaining handlers on the Council shall be the three handlers (exclusive of the three handlers first mentioned in this paragraph) who separately shipped the largest volume of peaches from North Carolina during the marketing season immediately preceding their term of office. In the event a handler is eligible for designation as one of the six members of the Council last above referred to, on the basis of the volume of peaches shipped from either State, such handler shall be designated from the State from which he shipped the larger volume.

(3) Any handler, except one who is a member or alternate member of the Committee, shall be eligible for membership on the Council. In the event a handler other than an individual is eligible to serve as a member, such handler shall file with the Committee, at the time it qualifies, a designation of the individual who will represent it on the Council.

(4) Initial members of the Council shall be announced by the Committee as soon as reasonably possible after the effective date hereof. Within fifteen days of such date, each handler who desires to serve on the Council shall file an affidavit with the Committee stating the volume of peaches which he shipped from the respective States of the production area to points outside the production area in the season of 1947. A handler other than an individual shall file with such affidavit a designation of the individual who will represent it on the Council. The Committee shall then determine the eligibility of the respective applicants, in conformity with subparagraph (2) of this paragraph, and announce the Council members accordingly.

(5) Succeeding members of the Council shall be appointed as follows: (i) The handlers eligible for membership shall be determined by the Committee from its records, in conformity with subparagraph (2) of this paragraph, by December 31 of each year; (ii) notice of eligibility shall be sent by the Committee to the respective handlers by the same date; (iii) eligible handlers who wish to serve as members shall qualify by filing an acceptance with the Committee by January 15 of the following year, except that eligible incumbent members of the Council shall qualify automatically for the succeeding term unless notice to the contrary is filed with the Committee by the said date; and (iv) the Committee shall announce the members. In the event any eligible handler fails to qualify therefor by notifying the Committee of his acceptance as provided herein, or in the event of the death, resignation, or disqualification of any member of the Council, the Committee may determine and announce a successor for the entire, or the unexpired, term of such member, as the case may be, on the basis of the

handler next eligible in conformity with subparagraph (2) of this paragraph.

(6) The members of the Council may receive per diem compensation and expenses on the same basis as Committee members (as provided in paragraph (j) of this section) for attendance at each meeting of the Council or Committee, or at each consultation or conference with any other committee, or representatives thereof, established under a marketing agreement and order program with respect to the handling of peaches, or while attending to Council or Committee business: *Provided*, That such meeting, consultation, conference, or business has been authorized by the Committee.

§ 982.3 *Expenses and assessments—*
(a) *Expenses.* The Committee is authorized to incur such expenses as the Secretary finds may be necessary to perform its functions hereunder during each fiscal period and for such other purposes as the Secretary may determine to be appropriate pursuant to the provisions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments, as herein provided, upon handlers.

(b) *Assessments.* (1) Each handler who first ships peaches shall pay to the Committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by the Committee, as aforesaid: *Provided*, That no assessment shall be paid for any shipment of peaches which is exempted from the provisions hereof pursuant to § 982.9 herein. Such handler's pro rata share of such expenses shall be equal to the ratio between the total assessable quantity of peaches shipped by such handler during the applicable fiscal period, and the total assessable quantity of peaches shipped by all handlers during the same fiscal period. The Secretary shall specify the rate of assessment to be paid by such handlers.

(2) The Secretary may, at any time during a fiscal period, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the Committee. Any such increase in the rate of assessment shall be applicable to all assessable peaches shipped during the specified fiscal period. In order to provide funds to enable the Committee to perform its functions hereunder, handlers may make advance payment of assessments.

(c) *Accounting.* If, at the end of any fiscal period, the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund shall be credited with such refund, unless such handler demands payment thereof, in which case such sum shall be paid to the respective handler. The Committee may, with the approval of the Secretary, maintain in its own name or in the name of its members a suit against any handler for the collection of such handler's pro rata share of expenses.

(d) *Funds.* All funds received by the Committee pursuant to the provisions hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the Committee and its members, including alternate members, to account for all receipts and disbursements; and (2) upon the death, resignation, removal, or expiration of the term of office, of any member or alternate member of the Committee, all books, records, funds, and other property in his possession or under his control, as such member or alternate member, which relate to the business of the Committee shall be delivered to his successor in office, or to the Committee, or to a designee of the Secretary, and such assignments and other instruments shall be executed as may be necessary to vest in such successor, committee, or designee full title to such books, records, funds, and property.

§ 982.4 *Marketing policy*—(a) *Report*. Before making any recommendation pursuant to § 982.5 or § 982.6 for a particular marketing season, the Committee shall submit to the Secretary a report setting forth the advisable marketing policy for such season. Such marketing policy report shall set forth the regulation or regulations which may be recommended by the Committee during the season, the justification therefor, and the estimates and other factors enumerated in § 982.4 (b). In the event the Committee deems it advisable to alter such marketing policy, subsequent to submitting a report thereon to the Secretary, the Committee shall submit to the Secretary a report setting forth such revised marketing policy.

(b) *Factors to be considered*. In determining such marketing policy, or such revised marketing policy, the Committee, after due consideration, shall include in the report its determinations and estimates of the following factors and conditions: (1) The estimated total quantity of each variety of peaches available for shipment in each district during the season, including the estimated percentage of such quantity of each variety in each district which will be represented by each of the various grades and sizes; (2) the estimated date that peaches of each variety in each district will be mature and ready for shipment; (3) the estimated commercial crop of peaches produced in competing States and the expected time of shipments of peaches from such States; (4) the anticipated competition to peaches from other fruits and melons; (5) the estimated market prices and marketing conditions that are expected to prevail for peaches grown in the production area; (6) the estimated harvesting and marketing costs and charges that are expected to apply to peaches grown in the production area; (7) the level and trend in commodity prices and consumer purchasing power; and (8) other factors which the Committee deems pertinent to the regulation of the marketing of peaches.

(c) *Notice*. The Committee shall promptly notify handlers and growers regarding any marketing policy report in such manner as may be reasonably expected to bring the proposed regulations and other pertinent information in such report to the attention of all handlers and growers.

§ 982.5 *Minimum standards of maturity and quality*—(a) *Maturing standard*. There is hereby established a minimum standard of maturity consisting of the requirements for maturity as defined herein. No handler shall ship peaches of any variety which do not meet the requirements for maturity. *Provided*, That ten percent tolerance for immature peaches shall be allowed under this minimum standard of maturity when no grade regulation pursuant to § 982.6 is in effect.

(b) *Quality standards*—(1) *Recommendation*. Whenever the Committee deems it advisable to establish and maintain minimum standards of quality governing the shipment of any or all varieties of peaches pursuant to this section, it shall recommend to the Secretary, in terms of grade or size, or in terms of both, the particular minimum standards below which shipments are to be prohibited. At the time of submitting any such recommendation, the Committee shall also submit to the Secretary the supporting data and information upon which it acted. The Committee shall also submit in support of its recommendations such other data and information as may be requested by the Secretary, and shall promptly give adequate notice to handlers and growers of any such recommendation.

(2) *Establishment*. Whenever the Secretary finds, from the recommendation and information submitted by the Committee, or from other sources, that to prohibit the shipment of peaches of any or of all varieties below certain specified minimum standards of quality would be in the public interest and would tend to effectuate the declared policy of the act, he shall so prohibit the shipment of such peaches. The Secretary shall immediately notify the Committee of the issuance of such regulation, and the Committee shall promptly give adequate notice thereof to handlers and growers.

(c) *Modification, suspension, or termination*. The Committee may recommend to the Secretary the modification, suspension, or termination of any or all of the minimum standards established or provided for herein. If the Secretary finds, upon the basis of such recommendation or from other sources, that to modify, suspend, or terminate these minimum standards will tend to effectuate the declared policy of the act, he shall so modify, suspend, or terminate the standards. The Secretary shall immediately notify the Committee, and the Committee shall promptly give adequate notice to handlers and growers, of the issuance of an order modifying, suspending, or terminating any such minimum standards. In like manner and upon the same basis, the Secretary may terminate any such modification or suspension.

§ 982.6 *Grade and size regulations*—(a) *Recommendation*. Whenever the Committee deems it advisable to limit the shipment of any or all varieties of peaches pursuant to this section, it shall recommend to the Secretary the particular grades or sizes, or both, deemed advisable by it to be shipped during a specified period. At the time of sub-

mitting any such recommendation, the Committee shall submit to the Secretary the supporting data and information upon which it acted in making such recommendation, and shall give consideration, among other things, to the factors enumerated in § 982.4 (b) required to be submitted in connection with the marketing policy report. The Committee shall submit in support of its recommendations such other data and information as may be requested by the Secretary, and shall promptly give adequate notice to handlers and growers of any such recommendation.

(b) *Establishment of regulations*. Whenever the Secretary finds, from the recommendation and information submitted by the Committee, or from other available information, that to limit the shipment of any or all varieties of peaches to particular grades or sizes, or both, would tend to effectuate the declared policy of the act, he shall so limit, during the specified period, the shipment of such variety or varieties of peaches. The Secretary shall immediately notify the Committee of the issuance of each such regulation, and the said Committee shall promptly give adequate notice thereof to handlers and growers.

(c) *Exemption certificates*. (1) In the event the Secretary issues a regulation or establishes quality standards, pursuant to § 982.5 or § 982.6, respectively, the Committee shall determine the percentage which the grades or sizes, or both, of each variety of peaches permitted to be shipped from each district, by such regulation issued by the Secretary, is of the total quantity of each variety of peaches which could be shipped from the respective district in the absence of such regulation. An exemption certificate may thereafter be issued to any grower who furnishes proof, satisfactory to the Committee, that by reason of conditions beyond his control, he will be prevented, because of the regulation established, from shipping a percentage of a particular variety of his peaches equal to the percentage of all peaches of that particular variety permitted to be shipped from the respective district, as determined by the Committee. Such certificate shall permit the aforesaid grower to ship a quantity of the particular variety of his peaches equal to the average percentage of that variety permitted to be shipped from the respective district, pursuant to existing regulations, as previously determined by the Committee. No exemption certificate shall be granted to include peaches which do not meet the requirements of the maturity standard established under § 982.5. The Committee shall maintain a record of all applications submitted for exemption certificates pursuant to the provisions of this section, and the Committee shall maintain a record of all certificates issued, including the information used in determining in each instance the quantity of peaches thus to be exempted, and a record of all shipments of exempted peaches. Such additional information shall be recorded in the records of the Committee as the Secretary may specify. The Committee shall from

time to time submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of peaches thus exempted, and such additional information as may be requested by the Secretary.

(2) In the event the Committee shall determine and report to the Secretary that by reason of general crop failure or any other unusual conditions within a particular district or districts, it is not feasible and would not be equitable to issue exemption certificates to growers within that district, or those districts, on the basis set forth in subparagraph (1) of this paragraph, the Committee may by resolution duly adopted, specify that an exemption certificate shall be issued to any grower who submits proof satisfactory to the Committee to the effect that the respective grower will be prevented, because of the regulation established, from shipping as large a percentage of his peaches of such variety as the average of all growers of such variety of peaches in the number or group of districts specified or enumerated in the resolution thus adopted by the Committee.

(3) In the event a grower's peaches are damaged by hail, he may immediately apply to the Committee, by telephone or otherwise, for an exemption, which shall be issued forthwith, and the applicant shall immediately be informed of the proportion of his crop which he may ship, corresponding to the average percentage being shipped in that district as a whole, as predetermined by the Committee in conformity with the provisions of this section: *Provided*, That representations made by the grower requesting exemption on account of hail damage are corroborated, at that time, to the satisfaction of the Committee by a person acceptable to it, and thereafter confirmed in writing by the grower and the person who verified his representations.

(4) If any grower is dissatisfied with the determination of the Committee, with respect to his application for an exemption certificate, such grower may appeal to the Secretary. *Provided*, That such appeal shall be taken promptly after the determination by the Committee. The Secretary may, upon an appeal as aforesaid, modify or reverse the action of the Committee from which such appeal was taken. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary and any determination by the Secretary with respect to an exemption certificate shall be final and conclusive.

§ 982.7 *Inspection and certification.* During any period in which the shipment of peaches is regulated pursuant to the provisions hereof, each handler shall, prior to making each shipment of peaches, cause each such shipment to be inspected by a representative of the Federal-State inspection service. Each handler shall, promptly after making each shipment of peaches, submit to the Committee a copy of the certificate issued thereon.

§ 982.8 *Compliance.* Except as provided herein, no handler shall ship peaches, the shipment of which has been prohibited in accordance herewith; and

no handler shall ship peaches except in conformity to the provisions hereof.

§ 982.9 *Shipments which are exempt.* Peaches shipped for consumption by a charitable institution, or for distribution for relief purposes, or for distribution by a relief agency, or for manufacturing, processing, canning, or conversion into byproducts on a commercial scale, shall be exempt from the provisions hereof. The Committee may, with the approval of the Secretary, exempt shipments up to and including 1,000 pounds net weight of peaches from the provisions hereof. The Committee may prescribe adequate safeguards to prevent peaches, exempted by the provisions of this section, from entering the commercial channels of trade contrary to, or in violation of, the provisions hereof.

§ 982.10 *Reports.* For the purpose of enabling the Committee to perform its functions and duties pursuant to the provisions hereof, each handler shall furnish to the Committee such information, in such form and at such times and substantiated in such manner as shall be prescribed by the Committee and approved by the Secretary, as may thus be requested by the Committee with regard to each shipment of peaches.

§ 982.11 *Right of the Secretary.* The members of the Committee, including successors and alternates thereof, and any agent or employee appointed or employed by the Committee, shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, determination, decision, or other act of the Committee shall be subject to the continuing right of the Secretary to disapprove of such order, regulation, determination, decision, or other act, and upon such disapproval such action by the Committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 982.12 *Effective time and termination—(a) Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press-release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any of the provisions hereof whenever he finds that any such provision does not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any fiscal period whenever he finds, by referendum or otherwise, that such termination is favored by the majority of the growers who, during the preceding fiscal period, have been engaged in the production of peaches for market: *Provided*, That such majority has, during such fiscal period, produced for market more than fifty (50) percent of the volume of such peaches produced for market within the area; but such termination shall be effective only

if announced on or before the last day of February of the then current fiscal period.

(4) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.*

(1) Upon termination of the provisions hereof, the then functioning members of the Committee shall continue as trustees of all of the funds and property (including claims for any funds unpaid or property not delivered at the time of such termination) then in the possession, or under the control, of such Committee; and for the purpose of liquidating the affairs of the Committee.

(2) The said trustees shall continue in such capacity until discharged by the Secretary and shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Committee or the trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the Committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the Committee and upon the said trustees.

(4) Any funds collected for expenses pursuant to the provisions hereof and held by such trustees or such other person, over and above accounts necessary to meet outstanding obligations and the expenses incurred necessarily by the trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination hereof, be returned to the handlers pro rata in proportion to their contributions made pursuant hereto.

§ 982.13 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 982.14 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions hereof.

§ 982.15 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 982.16 *Personal liability.* No member or alternate member of the Committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any

way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ 982.17 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 982.18 *Amendments.* Amendments hereto may be proposed, from time to time, by the Committee or by the Secretary.

§ 982.19 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen, or which may thereafter arise in connection with any provisions hereof, or any regulation issued hereunder, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any right or remedy of the United States, or of the Secretary, or of any other person with respect to any violation.

[F. R. Doc. 48-4193; Filed, May 10, 1948; 8:47 a. m.]

17 CFR, Part 982]

HANDLING OF PEACHES GROWN IN NORTH AND SOUTH CAROLINA

ORDER DIRECTING THAT REFERENDUM BE CONDUCTED AMONG PRODUCERS AND DESIGNATION OF AGENTS TO CONDUCT SUCH REFERENDUM; DETERMINATION OF REPRESENTATIVE PERIOD

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), it is hereby directed that a referendum be conducted among the producers, who during the period beginning March 1, 1947 and ending February 29, 1948 (which is hereby determined to be a representative period) have been engaged in the production of peaches for market in the North and South Carolina production area, to determine whether a majority of such producers favor the issuance of a marketing order regulating the handling of peaches grown in the aforesaid production area, a copy of which is attached to the decision¹ of the Acting Secretary of Agriculture filed simultaneously herewith; and D. M. Rubel, D. K. Young, and R. E. Hefferman, in the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to perform, jointly or severally, the following

functions in connection with the referendum:

(a) Conduct said referendum in the manner herein prescribed:

(1) By giving opportunity to each of the aforesaid producers to cast his ballot in the manner herein authorized, on the question of promulgating the aforesaid order, on a copy of the appropriate ballot form. A cooperative association of such producers, bona fide engaged in marketing peaches grown in North or South Carolina, may vote for the producers who are members of, stockholders in, or under contract with, such cooperative association (such vote to be cast on a copy of the appropriate ballot form), and the vote of such cooperative association shall be considered as the vote of such producers.

(2) By giving public notice, as prescribed in (a) (3) and (7) hereof, (i) of the time during which the referendum will be conducted, (ii) that any ballot may be cast by mail, and (iii) that all ballots so cast must be addressed to D. K. Young, Chief, Southeastern Marketing Field Office, Fruit and Vegetable Branch, 449 West Peachtree Street, Atlanta 3, Georgia, or to such other address as the said Mr. Young shall furnish or announce, and must be postmarked not later than 12:00 o'clock midnight of the last day of the referendum period.

(3) By giving public notice (i) by utilizing available agencies of public information (without advertising expense) including both press and radio facilities in North and South Carolina; (ii) by mailing a notice thereof (including a copy of the appropriate ballot form) to each such cooperative association and to each producer whose name and address is known; and (iii) by such other means as said referendum agents or any of them deem advisable.

(4) By conducting meetings of producers and arranging for balloting at the meeting places, if said referendum agents or any of them determines that voting shall be at meetings. At each such meeting, balloting shall continue until all of the producers who are present, and who desire to do so, have had an opportunity to vote. Any producer may cast his ballot at any such meeting in lieu of voting by mail.

(5) By giving ballots to producers at the meetings; and receiving any ballots when they are cast.

(6) By securing the name and address of each person casting a ballot, and inquiring into the eligibility of such person to vote in the referendum.

(7) By giving public notice of the time and place of any meetings authorized hereunder by posting a notice thereof, at least two days in advance of each such meeting, at each such meeting place, and in two or more public places within the applicable area; and, so far as may be practicable, by giving additional notice in the manner prescribed in paragraph (a) (3) hereof.

(8) By forwarding to D. K. Young, Chief, Southeastern Marketing Field Office, Fruit and Vegetable Branch, 449 West Peachtree Street, Atlanta 3, Georgia,

immediately after the close of the referendum, the following:

(i) A register containing the name and address of each producer to whom a ballot form was given;

(ii) A register containing the name and address of each producer from whom an executed ballot was received;

(iii) All of the ballots received by the respective referendum agent in connection with the referendum, together with a certificate to the effect that the ballots forwarded are all of the ballots cast and which were received by the respective agent during the referendum period;

(iv) A statement showing when and where each notice of referendum posted by said agent was posted and, if the notice was mailed to producers, the mailing list showing the names and addresses to which the notice was mailed and the time of such mailing; and,

(v) A detailed statement reciting the method used in giving publicity to such referendum.

(9) By appointing any county agricultural agent in the State of North Carolina or South Carolina, and any other persons deemed necessary or desirable, to assist the said referendum agents in performing their duties hereunder. Each such county agricultural agent and other person so appointed shall serve without compensation and may be authorized, by the said referendum agents or any of them, to perform any or all of the functions set forth in paragraphs (a) (5), (6) (7) and (8) hereof (which, in the absence of such appointment of subagents, shall be performed by said referendum agents) in accordance with the requirements herein set forth.

(b) Upon receipt by D. K. Young of all ballots cast in accordance with the provisions hereof, and such other information and data as may be required pursuant hereto, he shall forward the ballots, together with the information and data, to the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. The Fruit and Vegetable Branch shall canvass the ballots and prepare and submit to the Secretary a detailed report covering the results of the referendum, the manner in which the referendum was conducted, the extent and kind of public notice given, and all other information pertinent to the full analysis of the referendum and its results.

(c) Each referendum agent and appointee pursuant hereto shall not refuse to accept a ballot submitted or cast; but should they, or any of them, deem that a ballot should be challenged for any reason, or if such ballot is challenged by any other person, said agent or appointee shall endorse above his signature, on the back of said ballot, a statement that such ballot was challenged, by whom challenged, and the reasons therefor; and the number of such challenged ballots shall be stated when they are forwarded as provided herein.

(d) All ballots shall be treated as confidential.

The Director of the Fruit and Vegetable Branch, Production and Marketing

¹ See F. R. Doc. 48-4193, *supra*.

Administration, United States Department of Agriculture, is hereby authorized to prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the said referendum agents and appointees in conducting said referendum; and to determine the period during which such referendum is to be held.

Copies of the aforesaid marketing agreement and order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., and at the Southeastern Marketing Field Office, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, 449 West Peachtree Street, Atlanta, Georgia.

Ballots to be cast in the referendum may be obtained from any referendum agent, and any appointee hereunder.

Done at Washington, D. C., this 5th day of May 1948.

[SEAL] N. E. DODD,
Acting Secretary of Agriculture.

[F. R. Doc. 48-4192; Filed, May 10, 1948;
8:46 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

NOTICE FOR FILING OBJECTIONS TO PUBLIC LAND ORDER 474,¹ WITHDRAWING PUBLIC LAND FOR USE OF DEPARTMENT OF ARMY

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

MASTIN G. WHITE,
Acting Assistant Secretary
of the Interior

APRIL 30, 1948.

[F. R. Doc. 48-4178; Filed, May 10, 1948;
8:52 a. m.]

[Misc. 2090671]

ALASKA

SHORE SPACE RESTORATION ORDER NO. 402

APRIL 28, 1948.

Pursuant to the provisions of the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. 372) and in accordance with 43 CFR 4.275 (a) (56) (Departmental Order No. 2325 of May 24, 1947, 12 F. R. 3566) it is ordered as follows:

The 80-rod shore space reserve created under the act of May 14, 1898 (30 Stat. 409) as amended by the act of March 3, 1903 (32 Stat. 1028, 48 U. S. C. 371) is hereby revoked as to the lands herein-after described.

¹ See F. R. Doc. 48-4177, Title 43, Chapter I, *supra*.

At 10:00 a. m. on June 30, 1948, the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from June 30, 1948, to September 29, 1948, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a) as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. Sup. 279-283) subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2)

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from June 11, 1948, to June 30, 1948, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on June 30, 1948, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on September 30, 1948, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20-day period from September 11, 1948, to September 30, 1948, inclusive, and all such applications, together with those presented at 10:00 a. m. on September 30, 1948, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise,

and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office, Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 65 and 66 of Title 43 of the Code of Federal Regulations and applications under the small tract act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that title.

Inquiries concerning these lands shall be addressed to the District Land Office, Anchorage, Alaska.

The lands affected by this order are described as follows:

TERRITORY OF ALASKA

A tract of land on the right bank of the Naknek River, identified as U. S. Survey No. 2356, containing approximately 11 acres (soldiers' additional homestead application of A. R. Davey, Anchorage 08739).

A tract of land on the left bank of the Egegik River, identified as U. S. Survey No. 2366, containing approximately 30 acres (soldiers' additional homestead application of the Alaska Packers Association, Anchorage 08765).

A tract of land on the west shore of Selkovia Bay, identified as U. S. Survey No. 2597, containing 8 acres (soldiers' additional homestead application of the Alaska Year Round Canneries Company, Anchorage 010155).

A tract of land on the south shore of Hesketh Island in Kachemak Bay, Latitude 151°31' N., Longitude 59°30'10" W., containing approximately 5 acres (soldiers' additional homestead application of Charles Baker Abbott, Anchorage 010416).

A tract of land on Ekuk Point, Nushagak Bay, identified as U. S. Survey No. 2713, containing approximately 30 acres (soldiers' additional homestead application of Libby, McNeill and Libby, Anchorage 010955).

A tract of land on the right bank of the Egegik River, identified as U. S. Survey No. 2710, containing 8.82 acres (soldiers' additional homestead application of Libby, McNeill and Libby, Anchorage 010956).

A tract of land at the mouth of Hales Creek on Kvichak Bay, identified as U. S. Survey No. 2712, containing approximately 35 acres (soldiers' additional homestead application of Libby, McNeill and Libby, Anchorage 010957).

A tract of land on the west bank of Graveyard Creek near its confluence with Kvichak

Bay, identified as U. S. Survey No. 2711, containing approximately 30 acres (soldiers' additional homestead application of Libby, McNeill and Libby, Anchorage 010958).

The lands described aggregate approximately 157.82 acres.

The above-described lands, which are embraced in pending soldiers' additional homestead applications, are not needed or used by the public for landing or harborage purposes. The applicants have occupied and used the lands for many years and have placed extensive improvements upon these tracts.

THOS. C. HAVELL,
Assistant Director.

[F. R. Doc. 48-4179; Filed, May 10, 1948;
8:52 a. m.]

[Misc. 2090671]

ALASKA

SHORE SPACE RESTORATION ORDER NO. 403

APRIL 28, 1948.

Pursuant to the provisions of the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. 372) and in accordance with 43 CFR 4.275 (a) (56) (Departmental Order No. 2325 of May 24, 1947, 12 F. R. 3566) it is ordered as follows:

The 80-rod shore space reserve created under the act of May 14, 1898 (30 Stat. 409) as amended by the act of March 3, 1903 (32 Stat. 1028, 48 U. S. C. 371) is hereby revoked as to the lands herein-after described.

At 10:00 a. m. on June 30, 1948 the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from June 30, 1948 to September 29, 1948, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a) as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. Sup. 279-283) subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2)

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from June 11, 1948 to June 30, 1948, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on June 30, 1948 shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public-land laws.*

No. 92—7

Commencing at 10:00 a. m. on September 30, 1948, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20-day period from September 11, 1948 to September 30, 1948, inclusive, and all such applications, together with those presented at 10:00 a. m. on September 30, 1948, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office, Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254) to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 65 and 66 of Title 43 of the Code of Federal Regulations and applications under the small tract act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that title.

Inquiries concerning these lands shall be addressed to the District Land Office, Anchorage, Alaska.

The lands affected by this order are described as follows:

TERRITORY OF ALASKA

A tract of land on the right limit of Fox Creek, Kachemak Bay, near H. E. S. No. 79, containing 160 acres (homestead application of Jay S. Bibby, Anchorage 03687).

A tract of land on Jackson Point on Valdez Arm, containing approximately 4 acres (trade and manufacturing site application of Walter Day, Anchorage 010074).

The lands described aggregate approximately 164 acres.

The present applicants have occupied these tracts for many years and have placed valuable improvements thereon. Neither of these tracts is suitable for use as a landing place. The beach in front of the Bibby homestead is very shallow and constitutes a series of mud flats extending out into Kachemak Bay for a distance of about three miles. Due to the rapid flow of the water when the tide changes and due to the depth of the mud, it is impossible to get to the shore by skiff. The shore line of the tract on Valdez Arm is very rocky and consists of almost perpendicular cliffs.

THOS. C. HAVELL,
Assistant Director.

[F. R. Doc. 48-4180; Filed, May 10, 1948;
8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-854, G-962, G-963]

ATLANTIC SEABOARD CORP. ET AL.

ORDER CONSOLIDATING PROCEEDINGS AND
FIXING DATE OF HEARING

In the matters of Atlantic Seaboard Corporation and Virginia Gas Transmission Corporation, Docket No. G-854; Tennessee Gas Transmission Company, Docket No. G-962; and Commonwealth Natural Gas Corporation, Docket No. G-963.

Upon consideration of the following applications filed with the Federal Power Commission for certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural gas pipe line facilities, subject to the jurisdiction of the Commission as described in such applications on file with the Commission and open to public inspection:

(i) Joint application filed January 27, 1947, and the amendment thereto filed on January 2, 1948, in Docket No. G-854, by Atlantic Seaboard Corporation (Atlantic) a Delaware corporation, and Virginia Gas Transmission Corporation (Transmission) a Virginia corporation, both having their principal place of business at Charleston, West Virginia;

(ii) Application filed on October 20, 1947, and the amendment thereto filed April 19, 1948, in Docket No. G-962, by Tennessee Gas Transmission Company (Tennessee) a Delaware corporation having its principal place of business at Houston, Texas; and

(iii) Application filed on October 22, 1947, in Docket No. G-963, by Commonwealth Natural Gas Corporation (Commonwealth), a Virginia corporation having its principal place of business at Lynchburg, Virginia; and

Consideration of the motion for consolidation and continuance, or, in lieu thereof, for a continuance of hearing in Docket No. G-854 filed May 3, 1948, by Fuels Research Council, Inc., Anthracite Institute, Brotherhood of Locomotive Engineers, United Mine Workers of America, and Railway Labor Executives Association, interveners therein; and telegram filed May 4, 1948, by Tennessee Gas Transmission Company in opposition to said motion for consolidation and continuance.

It appears to the Commission that: (a) Due notice of the filing of the applications have been given, including publication in the FEDERAL REGISTER on February 25, 1947, and January 17, 1948, of the application and amendment in Docket No. G-854 (12 F. R. 1359, 13 F. R. 236-237), on October 31, 1947, of the application in Docket No. G-962 (12 F. R. 7095),¹ and on November 6, 1947, of the application in Docket No. G-963 (12 F. R. 7269-7270),

(b) Hearing on the amended application in Docket No. G-854 has been duly set for May 10, 1948, by the Commission's

¹ See F. R. Doc. 42-4172, *infra*.

order issued April 7, 1948, published in the FEDERAL REGISTER on April 10, 1948 (13 F. R. 1961).

(c) Among the issues presented by the said applications, and other pleadings presently filed in connection therewith, are the following:

(1) The extent of public need and market requirements for natural gas in the areas proposed to be served.

(2) Whether the proposed facilities, as designed and applied for, and the proposed methods of operation thereof, are adequate to render the services proposed and to meet the estimated demands for natural gas in the areas to be served.

(3) The supply of natural gas available to the several applicants to meet the demands of the services proposed to be rendered by the proposed facilities.

(4) The proposed financing and ability of the several applicants to finance the construction and operation of the proposed facilities.

(5) The economic feasibility of the construction and operation proposed by each applicant and the rates proposed to be charged by the several applicants.

(6) The ability of Applicants, Atlantic, Transmission and Tennessee, to render adequate service to their existing customers if any such Applicants should be authorized to serve any new areas, customers and markets sought herein by said Applicants.

(7) The feasibility of Tennessee supplying the estimated natural gas requirements of Commonwealth.

(8) Whether each of the Applicants is qualified, able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, as amended, and the requirements, rules and regulations of the Commission thereunder.

(9) Whether the proposed construction and operation of the facilities to the extent applied for are or will be required by the present or future public convenience and necessity.

(10) Whether certificates should be issued, and, if so, upon what terms and conditions, if any.

(d) Atlantic Seaboard Corporation and Virginia Gas Transmission Corporation, to meet the full estimated requirements for natural gas service as proposed in the joint application, will necessitate the securing of additional volumes of natural gas by Atlantic Seaboard Corporation from its affiliate, United Fuel Gas Company, which, in turn, will have to secure additional volumes from Tennessee Gas Transmission Company.

(e) Commonwealth Natural Gas Corporation proposes to meet its total estimated requirements for natural gas service, as proposed in its application, from Tennessee Gas Transmission Company.

(f) The securing of the estimated required volumes of natural gas by Atlantic Seaboard Corporation and Commonwealth Natural Gas Corporation are related to the construction of additional natural gas transmission facilities by Tennessee Gas Transmission Company.

(g) For a more detailed statement of facts and law asserted, interested persons may refer to said applications and other pleadings filed in the above-en-

titled dockets, which may be inspected at the offices of the Federal Power Commission, Washington, D. C.

(h) Good cause exists for consolidating the proceedings in the above-entitled dockets.

The Commission, therefore, orders that:

(A) The hearing ordered for May 10, 1948, on the joint amended application of Atlantic Seaboard Corporation and Virginia Gas Transmission Corporation, Docket No. G-854, be and the same hereby is postponed.

(B) The proceedings at Docket Nos. G-854, G-962 and G-963 be and the same are hereby consolidated.

(C) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a public hearing be held on the 1st day of June 1948, at 10:00 a. m., (e. d. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by the applications and other pleadings in the above-entitled consolidated proceedings.

(D) Interested State commissions may participate as provided by Rules 8 and 7 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: May 4, 1948.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4171; Filed, May 10, 1948;
8:46 a. m.]

[Docket No. G-962]

TENNESSEE GAS TRANSMISSION CO.

NOTICE OF AMENDED APPLICATION

MAY 4, 1948.

Notice is hereby given that on April 19, 1948, Tennessee Gas Transmission Company (Applicant) a Delaware corporation with its principal place of business at Houston, Texas, filed with the Federal Power Commission an amendment to its application heretofore filed on October 20, 1947, notice of which was published in the FEDERAL REGISTER on October 31, 1947 (12 F. R. 7095). By the amendment to the application Tennessee Gas Transmission Company requests a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural gas facilities, subject to the jurisdiction of the Federal Power Commission, which are described in the amendment as follows:

(1) Construct approximately 992 miles of loops along Applicant's existing main line between Compressor Station No. 0 and Broad Run, West Virginia, as follows:

Description:	Approximate length (miles)
30-inch O. D.-----	760
26-inch O. D.-----	143
24-inch O. D.-----	89
	992

(2) Construct approximately 395 miles of 26-inch O. D. main line, beginning at proposed new Compressor Station No. 207 in northeastern Kentucky and extending through the States of Ohio and western Pennsylvania in a northeasterly direction to a point south and in the vicinity of Buffalo, New York.

(3) Construct approximately 44 miles of 16-inch O. D. lateral transmission line, beginning at a point on the proposed 26-inch main transmission line in Columbiana County, Ohio, to a point in Allegheny County, Pennsylvania.

(4) Construct approximately 30 miles of 16-inch O. D. lateral gathering lines to connect additional gas supply to Applicant's pipeline system.

(5) Install in Applicant's existing or authorized compressor stations new compressor units aggregating 86,200 horsepower, together with other related facilities and construct new Compressor Station No. 207, to be located in eastern Kentucky of 5,000 installed horsepower.

(6) Construct check and sales meter stations on pipeline system.

The increased sales delivery capacity of Applicant's pipe-line system resulting from the construction and operation of the proposed new facilities is stated to be approximately 340,000 Mcf per day, making a total of 1,000,000 Mcf per day available for sales to markets. The Applicant estimates the total cost of the proposed facilities will approximate \$124,354,000. Applicant states it proposes to finance up to 60% of the cost of the facilities under provision of its existing mortgage indenture and the balance to be financed by the sale of other securities, bank loans and by earnings retained from operations. Annual gross revenues are estimated by Applicant at \$65,870,000, with operating costs and fixed charges including depreciation but excluding interest and other non-operating expenses, estimated at \$50,126,000, for an estimated annual gross income of \$15,744,000.

Applicant states that the facilities proposed by the amendment are primarily to supply increased quantities of natural gas to customers presently rendering natural gas service, principally in the Appalachian region. After hearing and disposition of the amendment Applicant alleges that the application will be further amended to provide for service to new markets in portions of eastern New York and New England. Applicant states that it has contracts for substantially the full capacity of the pipe-line system after installation of the facilities applied for in the amendment, aggregating 1,000,000 Mcf daily capacity as set forth below:

MCF of Contracted Demand or Estimated Initial Peak Requirement

Name of contracting company and State of delivery:

Mississippi:

Miscellaneous distribution available to serve small towns and communities in Mississippi (not fully contracted)-----

15,000

¹ Requirements contracts.

Met of Contracted Demand or Estimated Initial Peak Requirement—Continued

Name of contracting company and state of delivery	
Tennessee:	
Alabama-Tennessee Natural Gas Co.....	17,000
East Tennessee Natural Gas Co.....	40,000
Tennessee Natural Gas Lines, Inc.....	15,000
Kentucky Natural Gas Corp.....	15,000
	<hr/> 87,000
Kentucky:	
Louisville Gas and Electric Co.....	20,000
United Fuel Gas Co.....	75,000
Miscellaneous distribution available to serve small towns and communities in Kentucky, Tennessee, Mississippi, or other states south of Kentucky (not fully contracted).....	23,000
	<hr/> 118,000
West Virginia:	
United Fuel Gas Co.....	375,000
Hope Natural Gas Co.....	225,000
	<hr/> 600,000
Ohio:	
East Ohio Gas Co.....	35,000
Manufacturers Light and Heat Co.....	50,000
	<hr/> 85,000
Pennsylvania:	
Peoples Natural Gas Co.....	25,000
Equitable Gas Co.....	30,000
United Natural Gas Co.....	10,000
⊗ Pennsylvania Gas Co.....	10,000
	<hr/> 75,000
New York:	
Iroquoise Gas Corp.....	30,000
Total	<hr/> 1,000,000

¹ Requirements contracts.

Any interested State Commission is requested to notify the Federal Power Commission whether the application, as amended, should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application and amendment of Tennessee Gas Transmission Company are on file with the Commission and are open to public inspection. Any person desiring to be heard¹ or to make any protest with reference to the application, as amended, shall file with the Federal Power Commission, Washington 25, D. C.,

¹ Attention is invited to the order entered by the Commission on May 4, 1948, consolidating proceedings and fixing date of hearing for June 1, 1948, in the Matters of Atlantic Seaboard Corporation and Virginia Gas Transmission Corporation, Docket No. G-854, Tennessee Gas Transmission Company, Docket No. G-862, and Commonwealth Natural Gas Corporation, Docket No. G-863. See F. R. Doc. 48-4171, *supra*.

not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such protest or petition shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the rules of practice and procedure (18 CFR 1.8 or 1.10)

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4172; Filed, May 10, 1948;
8:46 a. m.]

[Docket No. G-1039]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION

MAY 4, 1948.

Notice is hereby given that on April 22, 1948, Northern Natural Gas Company (Applicant) a Delaware corporation having its principal place of business at Omaha, Nebraska, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas transmission facilities described as follows:

(1) Approximately 17.5 miles of 6 $\frac{3}{4}$ -inch O. D. pipeline beginning at Applicant's 20-inch main line in the Southwest Quarter (SW $\frac{1}{4}$) of Section 35, Township 29 South, Range 25 West, and extending in a northerly direction to the Dodge City 8 $\frac{3}{4}$ -inch O. D. Branch Line System in the Northwest Quarter (NW $\frac{1}{4}$) of Section 3, Township 27 South, Range 25 West, all in Ford County, Kansas.

(2) A regulating station to be located at the terminus of the proposed 6 $\frac{3}{4}$ -inch pipeline described in (1) above.

The application recites that Applicant has been delivering "wet gas" containing gasoline and hydrates direct from gas wells into the southwestern portion of its Dodge City Branch Line System and, as a result, has been experiencing difficulty and near freeze-offs due to the accumulation of condensate in the pipe-line in past winters. The proposed facilities will, in addition to delivering increased volumes of firm gas, enable Applicant to provide the protection it believes is necessary to insure adequate and continuous service to towns near the eastern end of the Dodge City Branch Line System.

The estimated total over-all capital cost of the proposed facilities is \$156,000, which will be financed out of the general funds of the Applicant.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Northern Natural Gas Company is on file with the Commission and is open to public inspection.

Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 8 or 10, whichever is applicable of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 or 1.10)

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-4174; Filed, May 10, 1948;
8:46 a. m.]

SECURITIES AND EXCHANGE
COMMISSION

[File Nos. 54-85, 59-90]

EAST COAST PUBLIC SERVICE CO. ET AL.

ORDER RELEASING JURISDICTION OVER FEES
AND EXPENSES

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 5th day of May A. D. 1948.

In the matter of East Coast Public Service Company, Virginia East Coast Utilities, Incorporated, Tidewater Electric Service Company, Floyd W. Woodcock (Applicants) File No. 54-85; East Coast Public Service Company, Virginia East Coast Utilities, Incorporated, Tidewater Electric Service Company (Respondents) File No. 59-90.

The Commission having issued an order dated April 2, 1947, approving a plan of East Coast Public Service Company ("East Coast"), a registered holding company, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935, in which plan East Coast Electric Company ("Virginia Company"), a subsidiary company of East Coast, joined with respect to all transactions affecting it, such plan providing, among other things, for (1) the merger of Tidewater Electric Service Company into Virginia East Coast Utilities, Incorporated and the change of name to East Coast Electric Company; (2) the issuance of \$1,300,000 principal amount of new First Mortgage Bonds and 60,000 shares of new Common Stock in connection with the recapitalization of the Virginia Company; (3) the exchange by East Coast of the old securities of the Virginia Company for \$800,000 principal amount of new First Mortgage Bonds and 60,000 shares of new Common Stock; (4) the sale by East Coast of \$800,000 principal amount of First Mortgage Bonds of Virginia Company and the simultaneous sale by Virginia Company for its own account of \$500,000 principal amount of its new First Mortgage Bonds; and (5) the liquidation and dissolution of East Coast; and

The Commission having issued an order dated September 29, 1947, approving an amendment to the section 11 (e) Plan of East Coast providing for the issuance of 45,000 additional shares of common stock by the Virginia Company, 30,000 of such shares being acquired by East Coast and distributed pro rata to its stock-

[File No. 70-1745]

AMERICAN POWER & LIGHT CO.

ORDER GRANTING APPLICATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington D. C., on the 5th day of May A. D. 1948.

American Power & Light Company ("American") a registered holding company and a subsidiary of Electric Bond and Share Company ("Bond and Share") also a registered holding company, has filed a declaration and amendments thereto under the Public Utility Holding Company Act of 1935, particularly sections 11 and 12 thereof and Rules U-44, U-45, and U-50 thereunder, regarding (a) the sale of 150,000 shares of the 600,000 shares of common stock of Kansas Gas and Electric Company ("Kansas") now owned by American; (b) the exemption of such sale from the competitive bidding requirements of Rule U-50; (c) the release by Kansas of American from certain claims against American and the assignment to American by Kansas of certain claims of Kansas against Bond and Share; and (d) a cash capital contribution to Kansas by American in the amount of \$82,378; and

A public hearing having been held on said application-declaration, as amended, after appropriate notice, and the Commission having examined the record and having made and filed its findings and opinion herein;

It is ordered, That said application-declaration, as amended, be and the same hereby is granted and permitted to become effective forthwith, subject to the terms and conditions contained in Rule U-24, and subject to the following additional conditions:

1. That the sale of 150,000 shares of common stock of Kansas by American shall not be consummated until a further order shall have been entered by the Commission in light of the record as completed with respect to the maintenance of competitive conditions and the results of negotiation, including the price to be paid American and the underwriters' commissions.

2. That jurisdiction be reserved with respect to all fees and expenses incurred or to be incurred in connection with the proposed transactions.

It is further ordered, That the application of American for an exemption from the competitive bidding requirements of sub-paragraphs (b) and (c) of Rule U-50 with respect to the sale of 150,000 shares of the common stock of Kansas Gas and Electric Company be and it hereby is granted.

American having requested that the Commission's order recite that the transactions proposed in the application-declaration, as amended, are necessary and appropriate to the integration and simplification of the holding company system of which American is a member and are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, and it appearing to the Commission that such recitals may properly be made;

It is further ordered and recited, That the transactions proposed, namely (a) the sale of 150,000 shares of the 600,000 shares of common stock of Kansas Gas and Electric Company now owned by American; (b) the release by Kansas of American from certain claims against American and the assignment to American by Kansas of certain claims of Kansas against Bond and Share; and (c) a cash capital contribution to Kansas by American in the amount of \$82,578, are necessary and appropriate to the integration and simplification of the holding company system of which American is a member and are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 48-4183; Filed, May 10, 1948;
8:53 a. m.]

[File No. 70-1797]

PORTLAND GAS & COKE CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 5th day of May A. D. 1948.

Portland Gas & Coke Company ("Portland") a gas utility subsidiary of American Power & Light Company, a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, having filed an application and amendment thereto, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 with respect to the following transactions:

Pursuant to an agreement dated March 3, 1948, between Portland and Mellon National Bank and Trust Company ("Mellon National"), Portland proposes to borrow from Mellon National \$1,000,000 on or before July 1, 1948, and an additional \$1,000,000 on or before November 1, 1948. It is proposed that the loans be evidenced by two promissory notes of Portland which would bear interest at the rate of 4% per annum. The promissory notes would be dated as of the date of the loans evidenced thereby and would be payable one year from the date of the first promissory note. As security for payment of the two promissory notes, Portland proposes to issue and deposit with Mellon National its First Mortgage Bonds, 3½% Series due 1976, which it would issue under its Mortgage and Deed of Trust, dated as of July 1, 1946. The aggregate principal amount of the bonds so issued and deposited would be equal to the amount of the borrowings. Portland proposes not to sell or otherwise dispose of the pledged bonds without obtaining the approval of all regulatory authorities, including this Commission, having jurisdiction with respect thereto. Under the proposed loan agreement Mellon National waives the right to receive interest on the pledged bonds until and unless a default in pay-

holders and 15,000 shares being sold to underwriters for resale to the public; and

The Commission's orders of April 2 and September 29, 1947, approving said plan of East Coast and amendments thereto, having reserved jurisdiction to consider the reasonableness of all fees and expenses in connection with such plan and amendments thereto; and

The Commission, in its order dated May 20, 1947, having approved the fees and expenses in respect of the issue and sale of \$1,300,000 principal amount of First Mortgage Bonds of the Virginia Company and

A supplemental application having been filed providing information with respect to the fees and expenses of East Coast and the Virginia Company in connection with the aforesaid transactions, other than the issue and sale of the Virginia Company's bonds, showing a detailed statement and the proposed allocation of such fees and expenses totalling \$80,305.99, which includes the following:

Legal fees and expenses	East Coast	Virginia Company
Miles, Walsh, O'Brien & Morris...	\$18,500.00	\$1,500.00
McGuire, Eggleston, Beacock & Woods	500.00	—
Morris, Steel, Nichols & Arsh...	1,750.00	1,500.00
George F. DeHardt...	—	1,250.00
Expenses	4,997.53	1,192.19
Company expenses	12,911.70	4,646.74
Special services:		
Floyd W. Woodcock, President of East Coast	10,000.00	—
T. M. Hauer, Vice President of East Coast	5,000.00	—
Other expenses	12,891.29	3,666.64
Total	66,550.62	13,755.47
		\$80,305.99

the applicants stating, in support of the compensation proposed to be paid to Floyd W. Woodcock and T. M. Hauer, that Woodcock received no compensation from East Coast during the period 1941 to date, and that Hauer has received only nominal compensation during the same period; and

It appearing that the amounts proposed to be paid Woodcock and Hauer are in lieu of salaries rather than fees applicable to the reorganization and under the circumstances of this case do not require our approval; and

It appearing that the remaining fees and expenses and the proposed allocation thereof as between East Coast and the Virginia Company are not unreasonable; and that jurisdiction heretofore reserved over such fees and expenses should now be released:

It is hereby ordered, That the application in respect of the amounts to be paid Floyd W. Woodcock and T. M. Hauer be dismissed.

It is further ordered, That jurisdiction heretofore reserved over the fees and expenses of East Coast and the Virginia Company and the allocation thereof in connection with the said transactions be, and the same is hereby, released.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 48-4184; Filed, May 10, 1948;
8:53 a. m.]

ment of principal or interest on the notes shall have occurred. Portland would reserve the right to prepay the promissory notes in whole at any time, or in part from time to time, without premium. Upon any such prepayment of the notes, Portland would be entitled to withdraw an equal principal amount of the pledged Bonds.

Portland proposes to use the proceeds of the loans for general corporate purposes and to provide, in part, funds required to complete construction work authorized and under way at the close of 1947 and to meet construction requirements for 1948. Portland proposes to pay to Mellon National a commitment fee of $\frac{1}{4}$ of 1% per annum on the unborrowed amount of its commitment from the date of the note agreement (March 3, 1948).

The proposed transactions are subject to the jurisdiction of the Oregon Commissioner of Public Utilities and the Washington Department of Public Utilities. Each of the foregoing regulatory bodies has expressly authorized the proposed transaction.

The application having been filed on March 30, 1948 and an amendment thereto having been filed on April 13, 1948, and notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act and the Commission not having received a request for hearing with respect to said application, as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to the application, as amended, that the requirements of the applicable provisions of the act and the rules thereunder are satisfied and that it is not necessary to impose any terms or conditions, and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that said application, as amended, be granted and deeming it appropriate to grant the request of applicant that the order become effective at the earliest date possible:

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24, that said application, as amended, be, and the same hereby is, granted.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 48-4185; Filed, May 10, 1948;
8:53 a. m.]

[File No. 70-1823]

AMERICAN POWER & LIGHT CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 4th day of May A. D. 1948.

Notice is hereby given that a declaration has been filed with this Commission pursuant to the Public Utility Holding

Company Act of 1935 by American Power & Light Company ("American") a subsidiary of Electric Bond and Share Company, both registered holding companies. American has designated section 12 (f) of the act and Rule U-45 thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may not later than May 13, 1948 at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street, N. W., Washington 25, D. C. At any time after May 13, 1948 said declaration as filed may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said declaration which is on file in the office of this Commission for a statement of the transactions therein proposed which may be summarized as follows:

American proposes to make an investment as a cash contribution to the capital of its wholly owned registered holding company subsidiary, Texas Utilities Company ("Texas Utilities") in the amount of \$9,237,520. Texas Utilities will use said cash contribution to repay loans from banks in the amount of \$8,500,000 and to reimburse its treasury for funds heretofore invested in the equities of its subsidiaries.

American requests that the Commission's order recite that the investment by American of \$9,237,520 as a contribution to the capital of Texas Utilities is necessary or appropriate to the integration or simplification of the holding company system of which American is a member and necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, all in accordance with the meaning and requirements of the Internal Revenue Code, as amended, including section 1808 (f) and Supplement R thereof.

American requests that the Commission's order herein be entered as soon as may be practicable and become effective upon issuance.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 48-4186; Filed, May 10, 1948;
8:54 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 11102]

ARTHUR AMES BLISS

In re: T/W of Arthur Ames Bliss, deceased; estate of Laura Neuhaus Bliss, deceased, and trusts under the will of Laura Neuhaus Bliss, deceased. File D-28-12129; E. T. sec. 16361.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lina May, Elfrida Vorwerk, Robert Neuhaus, Marie Neuhaus, Juro von Horvath, Maria Oertel, Herbert Lotze, Elisabeth Scheel and Konrad Lotze, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That issue, names unknown, of Robert Neuhaus, of Juro von Horvath and of Laura Lotze, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the trust under the will of Arthur Ames Bliss, deceased, in and to the trusts under the will of Laura Neuhaus Bliss, deceased, and in and to the estate of Laura Neuhaus Bliss, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by The Pennsylvania Company for Banking and Trusts, as trustee and as executor, acting under the judicial supervision of the Orphans' Court of Philadelphia County, Pennsylvania;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the issue, names unknown, of Robert Neuhaus, of Laura Lotze, deceased, and of Juro von Horvath, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 23, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-4193; Filed, May 10, 1948;
8:49 a. m.]

[Vesting Order 11068]

CAROLINE SCHECH

In re: Stock and bank account owned by Caroline Schech. F-28-17688-A-1, F-28-17688-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Caroline Schech, whose last known address is 11 Lindwurm Strasse, Munich, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, attached hereto and by reference made a part hereof, registered in the name of Caroline Schech and presently in the custody of Alan M. Wood, 111 Broadway, New York, New

York, together with all declared and unpaid dividends thereon, and

b. That certain debt or other obligation of The Chase National Bank of the City of New York, 18 Pine Street, New York, New York, arising out of an account entitled Miss Caroline Schech maintained at the branch office of the aforesaid bank located at 45th Street and Madison Avenue, New York, New York, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States

requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 9, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Name and address of corporation	Place of incorporation	Type of stock	Certificate No.	Number of shares
American Water Works & Electric Co., Inc., 50 Broad St., New York, N. Y.	Delaware	\$8 series cumulative first preferred stock.	PO 2224	11
Continental Can Co., Inc., 120 East 42d St., New York, N. Y.	New York	\$20 par value common stock	F 105018	30
			O 144207	20
			F 31630	10
			403983	6
E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, Del.	Delaware	do	N Y D 312290	10
General Electric Co., 1 River Road, Schenectady, N. Y.	New York	No par value common stock	417490	10
General Motors Corp., 1775 Broadway, New York, N. Y.	Delaware	\$10 par value common stock	O 622-634	30
			O 630-633	25
The Pennsylvania Railroad Co., 1617 Pennsylvania Boulevard, Philadelphia, Pa.	Pennsylvania	\$50 par value capital stock	916308	3
			990055	3
			F 24550	18
			A 227577	4
Radio Corp. of America, 30 Rockefeller Plaza, New York, N. Y.	Delaware	No par value common stock	W O 178200	10
			W O 235129	8
			N O 462210	0
			W O 110633	1
			W O 110637	1
			N O 465012	1
Southern Pacific Co., 105 Broadway, New York, N. Y.	Kentucky	do	F 212335	30
			F 16453	6
			F 14139	6
Standard Oil Co. of California, 225 Bush St., San Francisco, Calif.	Delaware	do	N Y C 30142	30
Union Carbide & Carbon Corp., 30 East 42d St., New York, N. Y.	New York	do	31225	30
Westinghouse Electric & Manufacturing Co., 306 Fourth Ave., Pittsburgh, Pa.	Pennsylvania	\$50 par value common stock	18725	10
			N Y O 140233	10
			156026	10
			134831	10
			P O 44635	2
Lawyers Mortgage Co., 115 Broadway, New York, N. Y.	New York	\$5 par value capital stock	02306	70
Marconi's Wireless Telegraph Co., Ltd., London, England	Great Britain	Ordinary stock	B 4007	50

[F. R. Doc. 48-4197; Filed, May 10, 1948; 8:48 a. m.]

[Vesting Order 11090]

HANS BENDER

In re: Stock and a bank account owned by Hans Bender. F-28-27014-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hans Bender, whose last known address is Freiburg I. B., Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, attached hereto and by reference made a part hereof, registered in the name of C. A. England & Co., presently in the custody of Chemical Bank & Trust Co., 165 Broadway, New York, New York, together with all

declared and unpaid dividends thereon, and

b. That certain debt or other obligation owing to Hans Bender, by Chemical Bank & Trust Co., 165 Broadway, New York, New York, arising out of a Custodian Cash Account, account number C2422, entitled Hans Bender, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a

national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Name and address of issuing corporation	State of Incorporation	Certificate No.	Number of shares	Par value	Type of stock
Container Corp. of America, 111 West Washington St., Chicago, Ill.	Delaware	NO 5233	10	\$20.00	Capital.
General Electric Co., 1 River Road, Schenectady, N. Y.	New York	NYE 12375	10	No par	Common.
National Biscuit Co., 449 West 14th St., New York, N. Y.	New Jersey	H 33333	10	10.00	Do.
Pittsburg Screw & Bolt Corp., 2719 Preble Ave., Pittsburgh, Pa.	Pennsylvania	NYO 2157	10	No par	Capital.
Radio Corp. of America, R. C. A. Bldg., Rockefeller Plaza, New York 20, N. Y.	Delaware	RC 11503	30	No par	Common.
Republic Steel Corp., Republic Bldg., Cleveland, Ohio	New Jersey	NYCO 5773	20	No par	Do.
Seaboard Air Line Railway Co., Seaboard Air Line Railroad Bldg., Plume and Granby Sts., Norfolk 10, Va.	Virginia, North Carolina	NY 5352 (1)	100 each	No par	Do.
Segal Lock & Hardware Co., Inc., 335 Broadway, New York, N. Y.	New York	NYC 5233	100	1.00	Do.
Tilo Roofing Co., Inc., 347 Longbrook Ave., Stratford, Conn.	Delaware	CO 2232	20	1.00	Do.
		NC 6233	10	1.00	Do.
United Aircraft Corp., East Hartford 8, Conn.	do.	CO 2720	20	5.00	Do.

[F. R. Doc. 48-4108; Filed, May 10, 1948; 8:48 a. m.]

[Vesting Order 11134]

CAROLINE MEIER

In re: Claim owned by Caroline Meier. F-28-19315-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Caroline Meier, whose last known address is (21a) Hille, b. Nr. 244 Kreis Minden, Westf, Germany, is a resident of Germany, and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain claim against the State of New York and the Comptroller of the State of New York, arising by reason of the collection or receipt by said Comptroller, pursuant to the provisions of the Abandoned Property Law of the State of New York, of the following:

That sum of money previously on deposit in Central Savings Bank in the City of New York, 4th Avenue at 14th Street, New York, New York, in an account numbered 129,155, entitled Caroline Meier,

and any and all rights to file with said Comptroller, demand, enforce and collect the aforesaid claim,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have

the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4201; Filed, May 10, 1948; 8:49 a. m.]

[Vesting Order 11129]

DR. GEORGE A. KRAUSE

In re: Debt owing to Dr. George A. Krause. F-28-6935-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Dr. George A. Krause, whose last known address is Munchen, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to Dr. George A. Krause, by Beech-Nut Packing Company, Canajoharie, New York, in the amount of \$375.00, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the prop-

erty described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4200; Filed, May 10, 1948; 8:49 a. m.]

[Vesting Order 11137]

OSAKA MARINE & FIRE INSURANCE CO., LTD.,
AND MITSUBISHI MARINE & FIRE INSURANCE CO., LTD.

In re: Debts owing to Osaka Marine & Fire Insurance Company, Ltd., and Mitsubishi Marine & Fire Insurance Company, Ltd. F-39-2746-C-4; F-39-2038-C-3.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Osaka Marine & Fire Insurance Company, Ltd., the last known address of which is Dojime, Osaka, Japan, is a corporation, organized under the laws of Japan, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Osaka, Japan and is a national of a designated enemy country (Japan)

2. That Mitsubishi Marine & Fire Insurance Company, Ltd., the last known address of which is Marunouchi, Tokyo, Japan, is a corporation organized under the laws of Japan, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Tokyo, Japan and is a national of a designated enemy country (Japan)

3. That the property described as follows: That certain debt or other obligation owing to Osaka Marine & Fire Insurance Company, Ltd., by Hill, Rivkins & Middleton, 60 Wall Street, New York 5, New York, in the amount of

NOTICES

\$269.11 being a portion of the sum of money on deposit with Manufacturers Trust Company, 55 Broad Street, New York, New York, in an account entitled "Hill, Rivkins & Middleton in trust for themselves & Osaka Marine & Fire Ins. Co. Ltd. and Mitsubishi Marine & Fire Ins. Co. Ltd. as interest may appear," maintained at the aforesaid bank and any and all rights to demand, enforce and collect the same, and any and all accruals thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Osaka Marine & Fire Insurance Company, Ltd., the aforesaid national of a designated enemy country (Japan)

4. That the property described as follows: That certain debt or other obligation owing to Mitsubishi Marine & Fire Insurance Company, Ltd., by Hill, Rivkins & Middleton, 60 Wall Street, New York 5, New York, in the amount of \$265.35 being a portion of the sum of money on deposit with Manufacturers Trust Company, 55 Broad Street, New York, New York, in an account entitled "Hill, Rivkins & Middleton in trust for themselves & Osaka Marine & Fire Ins. Co. Ltd. and Mitsubishi Marine & Fire Ins. Co. Ltd. as interest may appear," maintained at the aforesaid bank and any and all rights to demand, enforce and collect the same, and any and all accruals thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Mitsubishi Marine & Fire Insurance Company, Ltd., the aforesaid national of a designated enemy country (Japan)

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 and 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4202; Filed, May 10, 1948;
8:49 a. m.]

[Vesting Order 11140]

MRS. B. REGER

In re: Debt owing to Mrs. B. Reger, also known as Betty Meier.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. B. Reger, also known as Betty Meier, whose last known address is Forchheim, Oberfranken, Bavaria, Hornchuch Allee 8, Germany, c/o Schraudner, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: All those debts or other obligations owing to Mrs. B. Reger, also known as Betty Meier by Mrs. Ella Schildbach, 2714-172nd Street, Flushing, New York, including particularly but not limited to a portion of the sum of money on deposit with Queens County Savings Bank, Flushing, Long Island, New York, in a joint savings account, account number 106805, entitled Ella and/or Edward M. Schildbach, and any and all rights to demand, enforce and collect the same, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4203; Filed, May 10, 1948;
8:49 a. m.]

[Vesting Order 11141]

SAECHSISCHE STAATSBANK

In re: Bank account owned by Saechsische Staatsbank. F-28-7395-E-2.

Under the authority of the Trading With the Enemy Act, as amended, Execu-

tive Order 9193, as amended, and Executive Order 9788; and pursuant to law, after investigation, it is hereby found:

1. That Saechsische Staatsbank, the last known address of which is 18 Seestrass, Dresden A-1, Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany and is a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation owing to Saechsische Staatsbank, by The New York Trust Company, 100 Broadway, New York 15, New York, arising out of a checking account, entitled Saechsische Staatsbank, and any and all rights to demand, enforce and collect the same.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4204; Filed, May 10, 1948;
8:49 a. m.]

[Vesting Order 11143]

HEDWIG SCHULKE

In re: Bank account owned by Hedwig Schulke also known as Hedwig Shulke, F-28-28809-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hedwig Schulke, also known as Hedwig Shulke, whose last known

address is Radeberg by Dresden, Pulsnitzer Strasse 22A, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to Hedwig Schulke, also known as Hedwig Shulke, by Central Savings Bank in the City of New York, Broadway at 73rd Street, New York 23, New York, arising out of a savings account, account number 12410, entitled Hedwig Shulke, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4205; Filed, May 10, 1948; 8:49 a. m.]

[Vesting Order 11145]

CLARA STOECKLER

In re: Bank account owned by Clara Stoeckler, also known as Klara Stoeckler. F-28-3935-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Clara Stoeckler, also known as Klara Stoeckler, whose last known address is Kirchen Bezirk Enningen A/D, Wurttemberg, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation owing to Clara Stoeckler, also known as Klara Stoeckler, by Hudson Trust Company, 3112 Bergenline Avenue, Un-

ion City, New Jersey, arising out of a savings account, Account Number 14675 entitled Klara Stoeckler, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4206; Filed, May 10, 1948; 8:50 a. m.]

[Vesting Order 11148]

HARUMI USUKI

In re: Bank account and checking account owned by Harumi Usuki, also known as H. Usuki. F-39-4547-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Harumi Usuki, also known as H. Usuki, whose last known address is Nagasaki, Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the property described as follows:

a. That certain debt or other obligation owing to Harumi Usuki, also known as H. Usuki, by Wells Fargo Bank & Union Trust Co., 4 Montgomery Street, San Francisco, California, arising out of a Savings Account, account number 15999, entitled H. Usuki, and any and all rights to demand, enforce and collect the same, and

b. That certain debt or other obligation owing to Harumi Usuki, also known as H. Usuki, by Wells Fargo Bank & Union Trust Co., 4 Montgomery Street, San Francisco, California, arising out of a checking account entitled H. Usuki,

and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4207; Filed, May 10, 1948; 8:50 a. m.]

[Vesting Order 11149]

H. G. WAHL

In re: Debt owing to H. G. Wahl also known as Herman Georg Wahl. F-28-27952-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That H. G. Wahl, also known as Herman Georg Wahl, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to H. G. Wahl, also known as Herman Georg Wahl, by Brune, Nadler and Cuffe, 74 Worth Street, New York 13, New York, in the amount of \$396.27, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not

within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or other-

wise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4208; Filed, May 10, 1948; 8:50 a. m.]

[Return Order 115; Vesting Order 1501]

HARUNO YASUI ET AL.

Having considered the claims set forth below and having issued a Determination allowing the claims which are incorporated by reference herein and filed herewith and Notice of Intention to Return having been published on March 31, 1948 (13 F. R. 1786)

It is ordered, That the claimed property, described below and in the Determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, after adequate provision for taxes and conservatory expenses:

Claimant	Claim No.	Property	Claimant	Claim No.	Property	Claimant	Claim No.	Property
Haruno Yasui, 3449 Kaau St., Honolulu, T. H.	7400	\$558.77	Sakave Harano, 721 Paani St., Honolulu, T. H.	7596	\$518.79	Mr. Kumeshiro Kanda, 1131 Hoolal St., Honolulu, T. H.	7625	\$51.25
Takelro Yawata, 444 McNeill St., Honolulu, T. H.	7401	40.29	Monta Eelsen, a/k/a, Masuta Eelsen, 1436 10th Ave., Honolulu, T. H.	7598	552.93	Shinkichi Kashiwagi, c/o Shizu Kashiwagi, 1719-A Nuuanu Ave., Honolulu, T. H.	7628	300.67
Tomitaro Yawata, 444 McNeill St., Honolulu, T. H.	7402	13.19	Mr. Sukezuchi Higuchi, Pearl City, Oahu, T. H.	7602	6.80	Riyochi Katsuhira, C. P. C. Pomohe, Wahiawa, Oahu, T. H.	7630	1,005.44
Hsive Yokomizo, Queen's Hospital, Honolulu, T. H.	7403	1,120.02	Mr. Rikichi Hiraki, trustee for Shigeo Hiraki, 404 North School St., Honolulu, T. H.	7603	43.51	Gonzo Kiyu or Nol Kiyu, Post Office Box 211, Aiea, Oahu, T. H.	7635	1,220.34
Sakichi Yoshimoto, 1812 Lakapu St., Honolulu, T. H.	7406	24.36	Mr. Tame Hironaka, 2230 Citron St., Honolulu, T. H.	7604	223.28	Norjui Koga, Post Office Box 645, Wahiawa, Oahu, T. H.	7636	27.05
Junzo Yoshimura, Aiea, Oahu, T. H.	7407	83.21	Mrs. Tomi Hirata (formerly Tomi Fukuda), 832 South Hotel St., Honolulu 53, T. H.	7605	11.05	Mrs. Tamae Kubota, Post Office Box 192, Aiea, Oahu, T. H.	7637	590.21
Ryueichi Yoshimura, 1458 Kinau St., Honolulu, T. H.	7409	67.83	Mr. Mike Hironaka, 912 22d Ave., Honolulu, T. H.	7606	220.44	Mr. Kanji Maeda, 213 North King St., Honolulu, T. H.	7640	12.13
Yasuji Akaboshi, 3002-A Waialeae Ave., Honolulu 36, T. H.	7569	2,221.32	Mr. Tame Hirose, 2827-B Waiacate Ave., Honolulu, T. H.	7607	191.56	Mrs. Kura Mesatsugu, Post Office Box 501, Wahiawa, Oahu, T. H.	7642	1,467.41
Toyo Akita, Guardian of Shizuno Akita, 1931 Aupuni St., Honolulu, T. H.	7571	12.13	Mr. Hatsuho Horikami, 4210 Amalu Place, Honolulu, T. H.	7611	185.33	Moritaro Matsubara, 902-B Kahika Lane, Honolulu, T. H.	7644	135.63
Toyo Akita, Guardian of Yoshiko Akita, 1931 Aupuni St., Honolulu 29, T. H.	7573	33.15	Mr. Kikuno Igawa or Shizuo Igawa, 927 B Houston St., Honolulu 36, T. H.	7613	25.31	Tokuji Matsushita, 1025 Long Lane, Honolulu, T. H.	7648	307.13
Kazujiro Aono, 2014 Homerule, Honolulu, T. H.	7575	670.86	Mr. Masaru Ikeda, 3218 Castle St., Honolulu, T. H.	7614	204.94	Mrs. Betty Tamie Miyamura (nee Tamie Kawabata), 336-A Aiea St., Honolulu, T. H.	7650	174.70
Sana Arai, Post Office Box 211, Aiea, Oahu, T. H.	7576	256.43	G. Imanaka, trustee for Hidenori Imanaka, 3444 Aloha Ave., Honolulu, T. H.	7616	11.43	Mr. Yoshio Miyashiro or Kama Miyashiro, 2826-O Kamehameha Highway, Honolulu, T. H.	7652	212.63
Selva Aramaki, 1960 Young St., Honolulu, T. H.	7579	204.02	Isamu Iwanaga, Kami Farm, Post Office Box 189, Lanikai, T. H.	7618	24.86	Mr. Shotaro Moriguchi or Matsuo Moriguchi, 1856 Kalihl St., Honolulu, T. H.	7653	2,047.71
Mrs. Kazuo Fujii, per I. Fujii, 1041 Seventh Ave., Honolulu 47, T. H.	7581	249.71	Kano Iwaoka, guardian of Ginichi Iwaoka, 712 Halakauwila St., Honolulu, T. H.	7619	827.99	Mr. Shotaro Moriguchi, 1856 Kalihl St., Honolulu, T. H.	7654	163.34
Torahel Fujii, 38 Hialea St., Honolulu, T. H.	7582	17.64	Koyata Ibaraki, 2560 Kalakaua Ave., Honolulu 30, T. H.	7620	1,512.20	Mr. Naoyo Murakami, 776 Punahou St., Honolulu, T. H.	7656	0.67
Tomioy Fujikawa, 1114 Desha Lane, Honolulu, T. H.	7584	45.17	Sawano Iwata, 415-B Waiakamilo Road, Honolulu, T. H.	7621	26.29	Mr. Mika Nakashiga, 444 Ohe Lane, Honolulu, T. H.	7659	2,831.23
Itusuo Fujita, 1804 Lusitana St., Honolulu, T. H.	7585	175.98	Kame Kagami, guardian of Fusao Kagami, 1424 Kaumualii St., Honolulu 35, T. H.	7622	165.48	Mr. Ken Nishita or Kikuyo Nishita, a/k/a Nishida, 2719 Nakookoo St., Honolulu 36, T. H.	7661	205.69
Elzo Fukuda, 1306 Kopokoki Rd., Honolulu 49, T. H.	7588	31.08	Mr. Yoshitaro Kaku, 4664 Farmers Road, Honolulu, T. H.	7623	515.72	Mrs. Kikuyo Nishita, a/k/a Kikuyo Nishida, 2719 Nakookoo St., Honolulu 36, T. H.	7662	30.44
Kolehl Fukuoka or Mrs. Kimie Fukuoka, 1951 Fort St., Honolulu 23, T. H.	7591	2,242.03	Genchi Kan, 945-A South Queen St., Honolulu, T. H.	7624	101.02	Kaju Jinnal, formerly Kaju Iwamoto, 1007 Alewa Drive, Honolulu, T. H.	7610	202.02
Gishu Goya, 1436 Ninipu Pl., Honolulu, T. H.	7594	162.86						
Kichijiro Hanzawa, c/o Leihai Hospital, Honolulu 26, T. H.	7595	121.71						

¹ a/k/a Yasuji Akaboshi.

Executed at Washington, D. C., on May 5, 1948.

For the Attorney General.

DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-4211; Filed, May 10, 1948; 8:50 a. m.]

[Vesting Order 11150]

MARY WEIGL

In re: Bank accounts owned by Mary Weigl. F-28-28788-E-1, F-28-28788-E-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mary Weigl, whose last known address is Chammuenstrasse Near-cham, Bayern, Germany, is a resident of Ger-

many and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. That certain debt or other obligation owing to Mary Weigl, by Central Savings Bank in the City of New York, New York, New York, arising out of a savings account, account number 971,626, entitled Mary Weigl, maintained at the branch office of the aforesaid bank located at 4th Avenue and 14th Street, New York, New York, and any and all rights to demand, enforce and collect the same, and

b. That certain debt or other obligation owing to Mary Weigl, by The First National Bank of Farmingdale, Farmingdale, L. I., New York, arising out of a savings account, account number 4393, entitled Mary Weigl, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or de-

liverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4209; Filed, May 10, 1948;
8:50 a. m.]

[Vesting Order 11152]

MARGARETHE WOY

In re: Bank account owned by Margarethe Woy, also known as Margareth Woy and as Grete Woy. F-28-28596-C-1, F-28-28596-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margarethe Woy, also known as Margareth Woy, and as Grete Woy,

whose last known address is Sedan St. 8, Berlin, Spandau, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to Margarethe Woy, also known as Margareth Woy and as Grete Woy, by The Public National Bank and Trust Company, 37 Broad Street, New York, 15, New York, arising out of a savings account, account number 122947, entitled Margarethe Woy, maintained at the branch office of the aforesaid bank located at 1756 Pitkin Avenue, Brooklyn, New York, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States re-

quires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 26, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-4210; Filed, May 10, 1948;
8:50 a. m.]

